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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

STATE OF TEXAS, )  
Plaintiff, )  
V. )  
ERIC H. HOLDER, JR., )  
in his official capacity )  
as Attorney General of )  
the United States, )  
Defendant. )  
ERIC KENNIE, et al., )  
Defendant-Intervenors, )  
TEXAS STATE CONFERENCE ) CASE NO. 1:12-CV-00128  
OF NAACP BRANCHES, et al., ) (RMC-DST-RLW)  
Defendant-intervenors, ) Three-Judge Court  
TEXAS LEAGUE OF YOUNG )  
VOTERS EDUCATION FUND, et al., )  
Defendant-Intervenors, )  
TEXAS LEGISLATIVE BLACK )  
CAUCUS, et al., )  
Defendant-Intervenors, )  
VICTORIA RODRIGUEZ, et al., )  
Defendant-Intervenors. )

ORAL DEPOSITION OF  
REPRESENTATIVE PATRICIA HARLESS  
May 15, 2012

ORAL DEPOSITION OF REPRESENTATIVE PATRICIA HARLESS,  
produced as a witness at the instance of the Defendant, and duly  
sworn, was taken in the above-styled and numbered cause on the  
15th day May, 2012, from 9:42 a.m. to 7:11 p.m., before Amy C.  
Kofron, CSR in and for the State of Texas, reported by machine  
shorthand, at the offices of the United States Attorney, 816  
Congress Avenue, Austin, Texas, pursuant to the Federal Rules of  
Civil Procedure and the provisions stated on the record or  
attached hereto.

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<p style="text-align: right;">5</p> <p>1 REPRESENTATIVE PATRICIA HARLESS, 2 having been first duly sworn, testified as follows: 3 EXAMINATION 4 BY MR. FREEMAN: 5 Q. This is the deposition of Representative Patricia 6 Harless in the matter of Texas V. Holder, U.S. District Court 7 for the District of Columbia, Docket No. 1:11-CV-128. 8 My name is Dan Freeman, and I'm here on behalf of 9 Attorney General Eric Holder. And with me are my colleagues, 10 Elizabeth Westfall, Risa Berkower, Jennifer Maranzano and Bruce 11 Gear, who you've already met, as well as attorneys for the 12 defendant intervenors, who you've also met, so I won't introduce 13 them again. 14 Could you spell your name for the record. 15 A. It's Patricia, P-a-t-r-i-c-i-a, Harless, 16 H-a-r-l-e-s-s. 17 Q. Thank you. Have you ever been deposed before, 18 Representative? 19 A. I have. 20 Q. And when was that? 21 A. I can't remember. 20 years ago maybe, 10 years ago. 22 Q. Okay. So let me just give you a few ground rules. 23 I'm sure that your attorneys have spoken to you already. But a 24 deposition functions in the form of questions and answers. So 25 it's necessary for you to speak rather than gesture in order to</p>	<p style="text-align: right;">7</p> <p>1 while a question is pending. Is that all right? 2 A. Yes. 3 Q. Okay. If you want to talk to your attorney, that's 4 fine. But if there's a question pending or if you're in the 5 middle of an answer, if you could finish that up first, that 6 would be great. Is that okay? 7 A. Yes. 8 Q. Okay. At various points your attorney may object to a 9 question that I ask. Many of these objections will be resolved 10 by the Court at a later time. We have some disagreements 11 regarding the law that is applicable to this case, and so none 12 of us will be offended. But unless your attorney specifically 13 directs you not to answer, you need to please respond to my 14 question. Is that all right? 15 A. Yes. 16 Q. Sometimes your attorney may instruct you not to rely 17 on certain information when you're answering a question. If you 18 follow that instruction, please answer by preceding your answer 19 by saying, "based on the instruction" or "in reliance on my 20 attorney's instruction." This will help it be clear for the 21 record that you are relying on that instruction and possibly 22 providing a partial answer. If you follow that instruction and 23 as a result cannot answer at all, please do say, "I cannot 24 answer based on my attorney's instruction." Is that all right? 25 A. Yes.</p>
<p style="text-align: right;">6</p> <p>1 answer so that the court reporter can get everything down. Do 2 you understand? 3 A. Yes. 4 Q. And the purpose of the deposition is to secure your 5 testimony and your complete version of the facts relevant to 6 this case. And so I will need your full and complete answers to 7 the questions that I ask. Do you understand? 8 A. Yes. 9 Q. I may not always be clear when I ask my questions. 10 And so if you don't understand, please ask me to restate the 11 question so that you're able to answer completely. Do you 12 understand? 13 A. Yes. 14 Q. And I think we just had someone come onto the 15 phone, so -- 16 MR. ROSENBERG: Well, we'll enter our appearances -- 17 MR. FREEMAN: Okay. 18 MR. ROSENBERG: -- formally, I guess, at some point. 19 MR. FREEMAN: All right. 20 Q. If you need a break, please let me know, and we'll 21 finish the question that's pending, and then we'll see about a 22 break. Is that acceptable? 23 A. Yes. 24 Q. And if you need to get up for additional water or 25 coffee or something, we should do that between questions, not</p>	<p style="text-align: right;">8</p> <p>1 MR. ROSENBERG: And, Dan, before you begin then -- 2 MR. FREEMAN: Sure. 3 MR. ROSENBERG: -- we did not put our appearances on 4 the record. 5 Ezra Rosenberg from Dechert on behalf of the Texas 6 State Conference of NAACP Branches and the Mexican American 7 Legislative Caucus. 8 MR. DUNN: Chad Dunn on behalf of the defendant, 9 Kennie Intervenors. 10 MR. ROSENBERG: And we have someone on the line. Amy? 11 MS. PEDERSON: Amy Pederson for the Rodriguez 12 intervenors. 13 MR. ROSENBERG: Okay. Thanks. 14 MR. FREEMAN: And that's P-e-d-e-r-s-o-n. 15 THE REPORTER: Thank you. 16 Q. Now, I believe that your attorney agrees that you hold 17 any legislative privilege personally. Therefore, with regard to 18 your own statements or actions or those of your staff, you may 19 choose to waive that privilege in order to share the truth with 20 the Court, with the public, and with your constituents. For 21 example, during the redistricting litigation, numerous 22 legislators chose to provide full testimony. Sometimes is -- 23 does -- do you understand that? 24 A. Yes. 25 Q. Sometimes you may remember things later in the day.</p>

<p style="text-align: right;">21</p> <p>1 During your involvement on policy matters as a</p> <p>2 business owner, did you ever make any requests for materials</p> <p>3 under the Texas Open Records Act?</p> <p>4 A. Not that I recall.</p> <p>5 Q. Did you have to interact with government regulation</p> <p>6 and regulators as a small business owner?</p> <p>7 A. Yes.</p> <p>8 Q. And did you expect those government agencies to</p> <p>9 communicate with you fully, openly and honestly?</p> <p>10 A. Yes.</p> <p>11 Q. When did you last renew your driver's license?</p> <p>12 A. Well, about six years ago, I think. I think it's up</p> <p>13 for renewal this year, so we renew every six years.</p> <p>14 Q. Okay. And where did you have to go for that?</p> <p>15 A. I did it by mail.</p> <p>16 Q. And when was the last time you had to do it in person?</p> <p>17 A. I can't recall.</p> <p>18 Q. When are you allowed to renew a Texas driver's license</p> <p>19 by mail?</p> <p>20 A. You can renew your Texas driver's license, if I</p> <p>21 remember correctly, for the first renewal after six years.</p> <p>22 They're good for six years. The first renewal, if you haven't</p> <p>23 had any citations or speeding tickets or issues on your driver's</p> <p>24 license, you can renew by mail. After 12 -- after the second</p> <p>25 renewal, you have to go in, in person.</p>	<p style="text-align: right;">23</p> <p>1 normally been at work?</p> <p>2 A. Yes.</p> <p>3 Q. If you didn't have a car, would you be able to get to</p> <p>4 that driver's license office from your House?</p> <p>5 A. I don't know if the bus runs there. I can't tell you</p> <p>6 for sure.</p> <p>7 Q. Okay. If there weren't a bus, how long would it take</p> <p>8 you to get there?</p> <p>9 A. In my car?</p> <p>10 Q. Without a car.</p> <p>11 A. I can't even speculate.</p> <p>12 Q. Okay. If you had to walk, do you know how long it</p> <p>13 would take?</p> <p>14 A. No.</p> <p>15 Q. Do you know how much it would cost to take a cab from</p> <p>16 your House to the driver's license office?</p> <p>17 A. No.</p> <p>18 Q. Okay. Do you know what documents you brought with you</p> <p>19 when you went with your son to help him get his driver's</p> <p>20 license?</p> <p>21 A. I can't remember.</p> <p>22 Q. Do you know if some driver's license offices are</p> <p>23 currently closed because of funding issues?</p> <p>24 A. I think the record testimony in committee is that</p> <p>25 there are some.</p>
<p style="text-align: right;">22</p> <p>1 Q. Do you have to submit a new photograph when you renew</p> <p>2 by mail?</p> <p>3 A. No.</p> <p>4 Q. Okay. Do you know where the closest driver's license</p> <p>5 office is to your house?</p> <p>6 A. I do.</p> <p>7 Q. And how far is that from your house?</p> <p>8 A. It's probably about 7 to 10 miles.</p> <p>9 Q. And do you know what hours it's open?</p> <p>10 A. No, I don't.</p> <p>11 Q. And how long would it take you to get there?</p> <p>12 A. Depending on traffic, maybe 15 to 20 to 30 minutes.</p> <p>13 Q. And do you remember last time you went how long you</p> <p>14 had to wait in line?</p> <p>15 A. When my son turned 16, about 45 minutes.</p> <p>16 Q. Okay. And when your son turned 16, do you know what</p> <p>17 time of day you went with him?</p> <p>18 A. We went two different times, one to take a test and</p> <p>19 then one to get his temporary -- his temporary then to take the</p> <p>20 test. Maybe an hour to do the driving test.</p> <p>21 Q. Do you know what time of day you went, though?</p> <p>22 A. After school.</p> <p>23 Q. So --</p> <p>24 A. After 2:30 or 3:00.</p> <p>25 Q. If you hadn't been going with him, would you have</p>	<p style="text-align: right;">24</p> <p>1 Q. Are some currently using reduced hours?</p> <p>2 A. There may have been testimony on that. I can't recall</p> <p>3 specifically.</p> <p>4 Q. Okay. Do you know -- is there a driver's license</p> <p>5 office in every county in Texas?</p> <p>6 A. I think the testimony was that there is not.</p> <p>7 Q. Okay. Do you have a copy of your birth certificate?</p> <p>8 A. I do.</p> <p>9 Q. And does the name on the birth certificate match your</p> <p>10 current name on your driver's license?</p> <p>11 A. No.</p> <p>12 Q. Do you know where you'd get a copy if you lost your</p> <p>13 birth certificate?</p> <p>14 A. I do what my constituents do and call my office.</p> <p>15 Q. Okay. How much would it cost to get a new copy of</p> <p>16 your birth certificate?</p> <p>17 A. I couldn't tell you. I've got -- I've got a certified</p> <p>18 copy I've had since I was a kid.</p> <p>19 Q. Okay. Do you know how long it takes to get a new copy</p> <p>20 of a birth certificate?</p> <p>21 A. I don't.</p> <p>22 Q. Do you have a copy of the order that legally changed</p> <p>23 your name?</p> <p>24 A. I don't know if I do.</p> <p>25 Q. Do you know where you would get a copy?</p>

<p style="text-align: right;">25</p> <p>1 A. The order that -- no, I don't.</p> <p>2 Q. I guess after you got married?</p> <p>3 A. Yeah.</p> <p>4 Q. Do you know how much a copy would cost?</p> <p>5 A. I don't.</p> <p>6 Q. Do you know how long it would take to get a copy?</p> <p>7 A. I don't.</p> <p>8 Q. How would you go about finding out where to get a copy</p> <p>9 of that document?</p> <p>10 A. I'd call my office.</p> <p>11 Q. Okay. You probably get a lot of phone calls, don't</p> <p>12 you?</p> <p>13 A. We do, a lot.</p> <p>14 Q. And the next question is going to kind of sound a</p> <p>15 little silly, but I don't drive a car.</p> <p>16 How much is gas going for in Harris County right now?</p> <p>17 A. I filled up yesterday. I think I paid 3.79 a gallon.</p> <p>18 Q. When is the last time you voted?</p> <p>19 A. I voted last week.</p> <p>20 Q. And how far is your polling place from your home?</p> <p>21 A. I had to go to two different polling places. I voted</p> <p>22 in a MUD election and in an EDS election.</p> <p>23 Q. And just for the record, a MUD is a municipal utility</p> <p>24 district?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">27</p> <p>1 Q. Okay. So that's much closer than the driver's license</p> <p>2 office as well, correct?</p> <p>3 A. Well, not early voting.</p> <p>4 Q. But the election day precinct is much closer, correct?</p> <p>5 A. If I voted on election day. I don't.</p> <p>6 Q. Okay.</p> <p>7 A. I'm scared I might be sick and miss it.</p> <p>8 Q. I understand. We're often very busy on election day</p> <p>9 as well. Although in DC, our vote doesn't count quite as much.</p> <p>10 Okay. What ID are you carrying on you today?</p> <p>11 A. I have my driver's license, my concealed handgun</p> <p>12 license, my voter registration card.</p> <p>13 Q. And which ones of those have your photo on them?</p> <p>14 A. My driver's license and my concealed handgun license</p> <p>15 Q. Okay. And which of those establish your citizenship?</p> <p>16 A. I would say my driver's license.</p> <p>17 Q. Does it indicate on your driver's license that you're</p> <p>18 a United States citizen?</p> <p>19 A. No.</p> <p>20 Q. And so how does that document establish your</p> <p>21 citizenship?</p> <p>22 A. I think you have to answer a question that you're a</p> <p>23 citizen or provide some type of citizenship paper to get a</p> <p>24 driver's license.</p> <p>25 Q. So if someone is a Green Card holder who is a legal</p>
<p style="text-align: right;">26</p> <p>1 Q. And an EDS is?</p> <p>2 A. Is emergency -- or ESD, emergency service district.</p> <p>3 Q. Okay. And those had different polling places?</p> <p>4 A. Yes.</p> <p>5 Q. And how far was the MUD polling place?</p> <p>6 A. The MUD is our subdivision MUD, so it was probably a</p> <p>7 quarter of a mile. The EDS was at the fire department, so it</p> <p>8 was probably five or six miles, but they had -- they had a</p> <p>9 number of locations open.</p> <p>10 Q. Okay. And so those are much closer than the driver's</p> <p>11 license office; is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. And where do you vote for presidential elections? How</p> <p>14 far is that from your house?</p> <p>15 A. Well, in Harris County, we have early voting.</p> <p>16 Q. Okay.</p> <p>17 A. And I typically vote early voting, and that is at a</p> <p>18 church --</p> <p>19 Q. Uh-huh.</p> <p>20 A. -- and it's probably 7 to 10 miles from my house.</p> <p>21 Q. Okay. If you were to vote on election day --</p> <p>22 A. It's in --</p> <p>23 Q. -- do you know where you would vote?</p> <p>24 A. It's in my subdivision at an elementary school that's</p> <p>25 probably a mile or two away.</p>	<p style="text-align: right;">28</p> <p>1 resident of Texas and in line to become a citizen, can they not</p> <p>2 get a Texas driver's license?</p> <p>3 A. I'm not sure.</p> <p>4 Q. Okay. And if someone's here on a work visa, can they</p> <p>5 not get a Texas driver's license?</p> <p>6 A. I'm not sure. I don't know the procedures.</p> <p>7 Q. Okay. Do you have a passport on you?</p> <p>8 A. No.</p> <p>9 Q. Do you have a military ID?</p> <p>10 A. No. Now --</p> <p>11 Q. Is --</p> <p>12 A. -- I need to clarify that. You mean on me?</p> <p>13 Q. Yes.</p> <p>14 A. Okay.</p> <p>15 Q. Those are coming.</p> <p>16 A. Okay. I just --</p> <p>17 Q. And do you have a passport?</p> <p>18 A. I do.</p> <p>19 Q. Do you have a military ID?</p> <p>20 A. I don't.</p> <p>21 Q. Does anyone in your family have a military ID?</p> <p>22 A. Oh, my goodness, I have no clue.</p> <p>23 Q. Immediate family.</p> <p>24 A. I have six brothers, two sisters, 37 nieces and</p> <p>25 nephews and 42 great nieces and nephews all in Harris County.</p>

<p style="text-align: right;">29</p> <p>1 have no clue.</p> <p>2 Q. You must have amazing picnics.</p> <p>3 What other types of ID are produced by the State of</p> <p>4 Texas?</p> <p>5 A. Identification card, a driver's license --</p> <p>6 Q. Uh-huh.</p> <p>7 A. -- concealed handgun are all provided by DPS.</p> <p>8 Q. Anything else by the state or its agencies?</p> <p>9 A. I don't know that.</p> <p>10 Q. Do state colleges produce identification cards?</p> <p>11 A. I'd assume some do. The one my son went to had -- he</p> <p>12 had an ID, student ID card.</p> <p>13 Q. And do employers -- when the state is an employer,</p> <p>14 does it produce identification cards?</p> <p>15 A. I don't know what their procedures are.</p> <p>16 Q. Do you have any kind of legislator ID?</p> <p>17 A. I do.</p> <p>18 Q. Does it have your photo on it?</p> <p>19 A. It does.</p> <p>20 Q. Does that legislator identification card establish</p> <p>21 your identity?</p> <p>22 A. I guess it could.</p> <p>23 Q. Okay.</p> <p>24 A. It hadn't got me out of tickets.</p> <p>25 Q. I hope not.</p>	<p style="text-align: right;">31</p> <p>1 Q. And do you listen to any talk radio?</p> <p>2 A. No.</p> <p>3 Q. And do you receive any e-mail newsletters or repeated</p> <p>4 e-mails from any organization or individual?</p> <p>5 A. Our republican clubs that I'm members of send out</p> <p>6 massive amounts of information. I typically delete most of</p> <p>7 them.</p> <p>8 Q. And what republican clubs are you a member of?</p> <p>9 A. Northwest Forest Republican Women in Harris County and</p> <p>10 Texas Tea Republican Women, Cy-Fair Republican Women.</p> <p>11 Q. What was the last one?</p> <p>12 A. Cy-Fair Republican Women.</p> <p>13 Q. What is Cy-Fair?</p> <p>14 A. Cy-Fair is northwest area in Harris County.</p> <p>15 Q. Oh, okay. Thank you.</p> <p>16 Representative Harless, what committees do you</p> <p>17 currently sit on?</p> <p>18 A. I sit on State Affairs, on Licensing and -- LAP,</p> <p>19 Licensing and Administrative Procedures, Redistricting. I</p> <p>20 sit -- I sit on the Select Committee For Human Trafficking, and</p> <p>21 I served on the Select Committee For Voter -- I don't -- I don't</p> <p>22 know the technical name.</p> <p>23 Q. Was it the Select Committee on Voter Identification</p> <p>24 and Voter Fraud?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">30</p> <p>1 A. Yeah, I know.</p> <p>2 Q. Where do you get your information about elections?</p> <p>3 A. What do you mean?</p> <p>4 Q. In terms of news, information about issues.</p> <p>5 A. You mean on polling places or the date?</p> <p>6 Q. I mean in terms of the candidates, the issues, the</p> <p>7 polling.</p> <p>8 MR. SWEETEN: You're asking as a general matter?</p> <p>9 MR. FREEMAN: As a general matter, yes.</p> <p>10 MR. SWEETEN: Okay. All right.</p> <p>11 A. We get massive amounts of mail during the election</p> <p>12 season. I typically try to look at a sample ballot and do some</p> <p>13 research on the candidates --</p> <p>14 Q. Okay.</p> <p>15 A. -- just for my own information to see who I'm going to</p> <p>16 vote for.</p> <p>17 Q. And how do you do that research?</p> <p>18 A. I go to their web site if they have one, look at their</p> <p>19 web sites and read what their values are, what they say their</p> <p>20 values are.</p> <p>21 Q. And what newspapers or web sites do you read other</p> <p>22 than candidates' web sites?</p> <p>23 A. Just the Houston Chronicle.</p> <p>24 Q. Okay. What news channels do you watch?</p> <p>25 A. None.</p>	<p style="text-align: right;">32</p> <p>1 Q. Okay. What is a select committee?</p> <p>2 A. A select committee is a committee issued to study a</p> <p>3 specific item.</p> <p>4 Q. And who decides to establish a select committee within</p> <p>5 the legislature?</p> <p>6 A. Our information comes from the speaker's office.</p> <p>7 Q. So can the speaker decide to establish a select</p> <p>8 committee on any issue?</p> <p>9 A. I would assume he could.</p> <p>10 Q. Does anyone else participate in that decision-making</p> <p>11 process, to your knowledge?</p> <p>12 A. I wouldn't know.</p> <p>13 Q. Okay. Who picked the name of the Select Committee on</p> <p>14 Voter Identification and Voter Fraud?</p> <p>15 A. I don't know.</p> <p>16 Q. Are you aware of any other select committees related</p> <p>17 to voting or elections, first in the current legislature?</p> <p>18 A. Not other than this committee.</p> <p>19 Q. Any in past legislatures?</p> <p>20 A. I don't know. I've only been there three sessions.</p> <p>21 Q. Okay. But you said that you were involved, to some</p> <p>22 extent, as a small business owner; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. But were you not following issues related to election</p> <p>25 law?</p>

<p style="text-align: right;">33</p> <p>1 A. As a small business person, prior to being elected,</p> <p>2 no.</p> <p>3 Q. Okay. Are you aware of any other select committees</p> <p>4 that relate directly to a standing committee in the way that the</p> <p>5 Select Committee on Voter Identification and Voter Fraud relates</p> <p>6 to elections?</p> <p>7 A. I think we've had committees, yes.</p> <p>8 Q. Could you provide any examples?</p> <p>9 A. We had a select committee on emergency appropriation.</p> <p>10 We had a select committee on state sovereignty. I think there</p> <p>11 was a select committee on government efficiency, which are all</p> <p>12 under other jurisdictions of other committees.</p> <p>13 Q. And what is the purpose of establishing a select</p> <p>14 committee in those circumstances?</p> <p>15 A. In my opinion, it's to bring more attention and a</p> <p>16 larger venue to an issue.</p> <p>17 Q. Is the Select Committee on Voter Identification and</p> <p>18 Voter Fraud larger than the election committee?</p> <p>19 A. You mean as far as members?</p> <p>20 Q. As far as the number of members, yes.</p> <p>21 A. I don't know that.</p> <p>22 Q. What did you mean by a larger venue?</p> <p>23 A. It's a select issue --</p> <p>24 Q. Uh-huh.</p> <p>25 A. -- so you don't have to share the stage with other</p>	<p style="text-align: right;">35</p> <p>1 MR. FREEMAN: If I can mark this as U.S. Exhibit 12,</p> <p>2 (Exhibit No. 12 marked)</p> <p>3 Q. I guess that copy is for you. Could you take a look</p> <p>4 at this document? Have you seen this document before?</p> <p>5 A. Not that I recall.</p> <p>6 Q. Do you see on the second-to-last line of the first</p> <p>7 page where it says "fast track"?</p> <p>8 A. I see that.</p> <p>9 Q. Do you have any idea what that means?</p> <p>10 A. I know that the voter ID legislation was an emergency</p> <p>11 item for the governor's office.</p> <p>12 Q. Were there other emergency items for the governor's</p> <p>13 office?</p> <p>14 A. Yes.</p> <p>15 Q. Were those assigned to fast-track select committees?</p> <p>16 A. I don't recall.</p> <p>17 Q. Were there any other fast-track select committees in</p> <p>18 the 82nd legislature in 2011?</p> <p>19 A. I can't answer 100 percent sure, but I think that the</p> <p>20 state sovereignty committee was a select committee. The</p> <p>21 government reform committee was a select committee for</p> <p>22 government for the governor's emergency items. I think there</p> <p>23 were more than just this that were the governor's emergency</p> <p>24 items that had select committees.</p> <p>25 Q. But if you look on this document below "Fast Track</p>
<p style="text-align: right;">34</p> <p>1 issues, and it brings in more participation, in my -- my view, a</p> <p>2 larger group to participate. It's a single issue, so it's open</p> <p>3 more to the public, and testimony is not limited.</p> <p>4 Q. Okay. By saying that testimony is not limited, do you</p> <p>5 mean that there are not limitations on the amount of time that</p> <p>6 individuals can testify under the House rules?</p> <p>7 A. No.</p> <p>8 Q. What do you mean by that?</p> <p>9 A. I mean that in the regular committee process on agenda</p> <p>10 when we have legislation that's there for a hearing --</p> <p>11 Q. Uh-huh.</p> <p>12 A. -- there may be five, ten, twenty pieces of</p> <p>13 legislation. So the committee kind of establishes a time frame</p> <p>14 in how long they'll give each of these issues in order to get</p> <p>15 through the agenda. And on the select committee, it is the sole</p> <p>16 purpose to hear that information as broad and as wide with as</p> <p>17 much participation as possible.</p> <p>18 Q. Do select committees overlap in the time that they</p> <p>19 meet with other committees that members of the committee may be</p> <p>20 on?</p> <p>21 A. It's possible. I can't tell you for sure if we did or</p> <p>22 if they do, but it's possible.</p> <p>23 Q. Okay. Was the Select Committee on Voter</p> <p>24 Identification and Voter Fraud a "fast-track" committee?</p> <p>25 A. I can't answer that.</p>	<p style="text-align: right;">36</p> <p>1 Select Committee on Voter Identification and Voter Fraud," do</p> <p>2 you see "Select Committee on State Sovereignty"?</p> <p>3 A. I do.</p> <p>4 Q. Is that designated a fast-track committee?</p> <p>5 A. It doesn't -- it doesn't say that in this document.</p> <p>6 Q. Are you aware of any other fast-track committees</p> <p>7 having been established in the sessions of the legislature in</p> <p>8 which you served?</p> <p>9 A. I can't answer that. I didn't write this, so I can't</p> <p>10 answer that.</p> <p>11 Q. But are you aware of any other committees being</p> <p>12 designated as fast-track committees?</p> <p>13 A. I don't know for sure.</p> <p>14 Q. Okay. So you're not aware?</p> <p>15 A. I'm not aware.</p> <p>16 Q. Thank you.</p> <p>17 A. No. I can't say I'm not -- I don't recall.</p> <p>18 Q. Okay. How many bills did the Select Committee on</p> <p>19 Voter Identification and Voter Fraud consider?</p> <p>20 A. We had a hearing on just the one.</p> <p>21 Q. Okay. Are there any other examples of committees or</p> <p>22 which you are aware that heard only one bill?</p> <p>23 A. I don't know.</p> <p>24 Q. So you're not aware of any other examples of a</p> <p>25 committee that has heard only one bill?</p>



<p style="text-align: right;">37</p> <p>1 A. I don't know if there were any other committees that</p> <p>2 only heard one bill. There's like 30-plus committees, and I</p> <p>3 have my hands full with my committee.</p> <p>4 Q. No. I understand. I'm just asking: To your</p> <p>5 knowledge, you don't --</p> <p>6 A. Not to my knowledge.</p> <p>7 Q. -- you're not aware of any other?</p> <p>8 A. I don't remember.</p> <p>9 Q. Okay. Thank you.</p> <p>10 Were there any bills submitted in the 82nd legislature</p> <p>11 to address mail-in voter fraud?</p> <p>12 A. Any committees?</p> <p>13 Q. Any bills submitted?</p> <p>14 A. Yes, I think there were.</p> <p>15 Q. Were those referred to the Select Committee on Voter</p> <p>16 Identification and Voter Fraud?</p> <p>17 A. If they were, we did not hear them.</p> <p>18 Q. Okay.</p> <p>19 A. I'm not sure where they referred them, but we did not</p> <p>20 have a hearing on them.</p> <p>21 Q. If I can just -- we can just clean this up real</p> <p>22 quickly, if I can have this marked U.S. Exhibit 13.</p> <p>23 (Exhibit No. 13 marked)</p> <p>24 MR. SWEETEN: That last one was 12?</p> <p>25 MR. FREEMAN: Yes.</p>	<p style="text-align: right;">39</p> <p>1 A. It says, "Number of bills: 1."</p> <p>2 And it says, "Bills Out of Committee: (1)."</p> <p>3 Q. But if you look at the top of the page, it states,</p> <p>4 "Texas Legislature" --</p> <p>5 A. Right.</p> <p>6 Q. -- "Bills By Committee."</p> <p>7 A. Right.</p> <p>8 Q. Does -- do you understand what that would mean?</p> <p>9 A. I guess this document is saying there was only one</p> <p>10 bill referred, from what --</p> <p>11 Q. Okay.</p> <p>12 A. -- what you're saying.</p> <p>13 Q. And you don't have any recollection of hearing or</p> <p>14 addressing any other bill in the select committee?</p> <p>15 A. No, we did not.</p> <p>16 Q. Okay. Why would a bill related to the -- to mail-in</p> <p>17 voter fraud not be referred to the select committee?</p> <p>18 MR. SWEETEN: Hold on one second. I just want to</p> <p>19 provide you a admonitory instruction you're going to hear</p> <p>20 several times today. I don't want you to reveal in answering</p> <p>21 questions for Mr. Freeman any thoughts, mental impressions or</p> <p>22 opinions about legislation, including S.B. 14. I don't want you</p> <p>23 to reveal any communications with legislators, legislative</p> <p>24 staff, state agencies, including the governor's office or</p> <p>25 lieutenant governor, any communications with Texas Legislative</p>
<p style="text-align: right;">38</p> <p>1 Q. Have you seen this document before?</p> <p>2 A. No, I haven't seen it in this form.</p> <p>3 Q. Do you recognize it, though?</p> <p>4 A. Yes.</p> <p>5 Q. And does this document indicate the number of bills</p> <p>6 that were heard by the Select Committee on Voter Identification</p> <p>7 and Voter Fraud?</p> <p>8 A. Bills by committee. Seems to be.</p> <p>9 Q. And how many bills were heard by the select committee?</p> <p>10 A. One.</p> <p>11 Q. Okay. So is it the case that any of the bills that</p> <p>12 were submitted related to mail-in voter fraud were not submitted</p> <p>13 to the select committee; is that correct?</p> <p>14 A. You know, I'm not familiar with how the system</p> <p>15 searches that. If you are and you're saying that, then I</p> <p>16 understand, but I don't know. Is this a search on all the bills</p> <p>17 that were referred to that committee, or --</p> <p>18 Q. Well --</p> <p>19 A. -- is it just a search on the bills that were heard in</p> <p>20 that committee?</p> <p>21 Q. If you can see, the report indicates that it is the</p> <p>22 82nd legislature regular session.</p> <p>23 A. Right.</p> <p>24 Q. And the number of bills by committee. Do you see</p> <p>25 where it indicates one?</p>	<p style="text-align: right;">40</p> <p>1 Council or constituents. You are free to include matters of the</p> <p>2 public record, including committee hearings, House floor</p> <p>3 proceedings, debates or those proceedings.</p> <p>4 MR. FREEMAN: And I will just -- just note for</p> <p>5 the record that you are, in fact, free to reveal your own</p> <p>6 communications and mental impressions. It is your privilege to</p> <p>7 assert or to waive.</p> <p>8 MR. SWEETEN: Counsel, first of all, I'm going</p> <p>9 to -- I'm her attorney.</p> <p>10 MR. FREEMAN: I recognize that.</p> <p>11 MR. SWEETEN: I will do the instructing as to</p> <p>12 what -- and I'm communicating with my client, and she is</p> <p>13 asserting the privilege. This is the second time now that</p> <p>14 you've told her that. I'll give her the legal advice, and she</p> <p>15 has indicated that she will assert the privilege. So my</p> <p>16 marching orders is I will provide her with the framework for how</p> <p>17 to assert that privilege.</p> <p>18 MR. FREEMAN: Okay.</p> <p>19 MR. SWEETEN: So I would ask you to not continue</p> <p>20 with that line.</p> <p>21 MR. FREEMAN: Okay. Well, Counsel, at this</p> <p>22 point, she has not verbally asserted the privilege in this</p> <p>23 deposition, although she is, of course, free to if she chooses</p> <p>24 to.</p> <p>25 MR. SWEETEN: We have done so in a court filing.</p>

<p style="text-align: right;">41</p> <p>1 and she is asserting that privilege.</p> <p>2 MR. FREEMAN: I believe there was a question</p> <p>3 pending. Is it possible to get it read back?</p> <p>4 THE REPORTER: Yeah. Sure. Yeah, I can read it</p> <p>5 back.</p> <p>6 Question: "Okay. Why would a bill related to</p> <p>7 the -- to mail-in voter fraud not be referred to the select</p> <p>8 committee?"</p> <p>9 MR. SWEETEN: With that instruction, go ahead and</p> <p>10 answer.</p> <p>11 A. I don't know.</p> <p>12 Q. Who makes the decisions concerning to which committee</p> <p>13 each bill is referred?</p> <p>14 A. I'm -- I don't know that.</p> <p>15 Q. How many bills did you submit in the 82nd legislature?</p> <p>16 A. I can't answer.</p> <p>17 Q. Do you have a rough number?</p> <p>18 A. I think it was less than 35.</p> <p>19 Q. Okay. And were you ever concerned regarding what</p> <p>20 committee each of those bills would be referred to?</p> <p>21 A. On advice from my counsel, I can't answer that.</p> <p>22 Q. And does the name -- does the particular committee to</p> <p>23 which a bill is referred affect its likelihood of being passed</p> <p>24 out of committee and out of the House and becoming law?</p> <p>25 A. I don't know that.</p>	<p style="text-align: right;">43</p> <p>1 A. I can't -- I can't remember.</p> <p>2 Q. Do you recall, did it occur in person?</p> <p>3 A. I don't know.</p> <p>4 Q. Did you ever send an e-mail regarding the assignment</p> <p>5 to that committee?</p> <p>6 A. Not that I recall.</p> <p>7 Q. Did you submit preferences for committees prior to the</p> <p>8 committee assignments being made?</p> <p>9 A. I think that's privileged communication.</p> <p>10 Q. What legislation would that relate directly to?</p> <p>11 MR. SWEETEN: I'm sorry. The question again?</p> <p>12 Can you -- can you say it again?</p> <p>13 Q. Did you submit preferences regarding your choices for</p> <p>14 committees?</p> <p>15 MR. SWEETEN: I think you're asking her to reveal</p> <p>16 communications she's had with other legislators, legislative</p> <p>17 staff, state agencies, Texas Legislative Council or constituents</p> <p>18 as to pending legislation.</p> <p>19 Q. At the time that the -- strike that.</p> <p>20 Did you ever discuss committee assignments with</p> <p>21 Speaker Straus?</p> <p>22 MR. SWEETEN: Don't reveal any communications</p> <p>23 that you've had regarding pending legislation.</p> <p>24 A. I can't answer that for a privileged conversation.</p> <p>25 Q. Did you ever have communications regarding committee</p>
<p style="text-align: right;">42</p> <p>1 Q. So if a particular committee is busy with one issue,</p> <p>2 is it more or less likely that it would address other bills that</p> <p>3 may be referred to it?</p> <p>4 A. I don't know that.</p> <p>5 Q. Why was the Select Committee on Voter Identification</p> <p>6 and Voter Fraud convened?</p> <p>7 MR. SWEETEN: Don't reveal thoughts, mental</p> <p>8 impressions or opinions about the legislation, including</p> <p>9 communications that we've outlined.</p> <p>10 A. I can't answer that.</p> <p>11 Q. Thank you. Why are you asserting legislative</p> <p>12 privilege here today?</p> <p>13 A. On advice from my counsel, protected conversations.</p> <p>14 Q. Did you ask to be included on the Select Committee on</p> <p>15 Voter Identification and Voter Fraud?</p> <p>16 A. I can't remember.</p> <p>17 Q. Did you discuss your assignments before they were</p> <p>18 formally made?</p> <p>19 MR. SWEETEN: Don't reveal any communications that</p> <p>20 you've had with other legislators, legislative staff, state</p> <p>21 agencies, Texas Legislative Council or constituents. Those are</p> <p>22 legislative privileges.</p> <p>23 A. That would be a conversation that I had with another</p> <p>24 member.</p> <p>25 Q. When did that conversation occur?</p>	<p style="text-align: right;">44</p> <p>1 assignments with Chairman Bonnen?</p> <p>2 MR. SWEETEN: You can say -- you can reveal</p> <p>3 whether or not you've had a conversation with Representative</p> <p>4 Bonnen. You cannot -- I'm instructing you not to reveal the</p> <p>5 substance of that conversation.</p> <p>6 A. Not that I recall.</p> <p>7 Q. Did you have any conversation concerning committee</p> <p>8 assignments with Senator Fraser?</p> <p>9 A. Not that I recall.</p> <p>10 Q. What committees did you serve on in your past</p> <p>11 sessions?</p> <p>12 A. 2009, I served on State Affairs, Workforce and</p> <p>13 Technology. I can't remember the other committee. There was</p> <p>14 another one. And 2007, I served on Transportation, County</p> <p>15 Affairs, and Rules and Resolutions.</p> <p>16 Q. Okay.</p> <p>17 A. Redistricting was the other one in 2009.</p> <p>18 Q. Okay. Did you ever -- so you never served on the</p> <p>19 Elections committee?</p> <p>20 A. No.</p> <p>21 Q. Did you ever assert that you wished to serve on the</p> <p>22 Elections committee?</p> <p>23 MR. SWEETEN: Don't reveal any communications</p> <p>24 that you've had with other legislators, legislative staff, state</p> <p>25 agencies, Texas Legislative Council or constituents. If it's a</p>



<p style="text-align: right;">45</p> <p>1 matter of public record, you can answer the question.</p> <p>2 A. Not that I recall.</p> <p>3 Q. Okay. Have you ever sponsored or cosponsored</p> <p>4 legislation related to open government?</p> <p>5 A. I think I probably have.</p> <p>6 Q. Okay. And what was that?</p> <p>7 A. Whew. I filed a bill on the Systems Benefit Fund to</p> <p>8 stop state agencies from diversions of funds, and I can't</p> <p>9 remember the specifics of the others.</p> <p>10 Q. And why did you submit a bill related to open</p> <p>11 government?</p> <p>12 A. Well, this one was specifically diversions of the</p> <p>13 funds.</p> <p>14 Q. Okay. And why was that issue important to you?</p> <p>15 A. Because the money that is taxed should go to that</p> <p>16 specific purpose.</p> <p>17 Q. Okay. Before this last term, did you ever sponsor any</p> <p>18 election-related bills?</p> <p>19 A. I filed a bill pertaining to election costs in my</p> <p>20 school district in 2009.</p> <p>21 Q. Okay. Anything in 2007?</p> <p>22 A. I may have filed that same bill in 2007.</p> <p>23 Q. And in 2011, did you file that same bill?</p> <p>24 A. I possibly could have. I can't recall for sure.</p> <p>25 Q. Did you file anything related to elections in 2011</p>	<p style="text-align: right;">47</p> <p>1 guarantee that I do. I know it's usually face-to-face.</p> <p>2 Q. And if I can -- if I can jump back real quickly. Can</p> <p>3 I ask you -- you earlier testified that you were -- that you had</p> <p>4 an increased interest in matters related to elections because</p> <p>5 photographic voter ID was important to your district. Is that</p> <p>6 correct?</p> <p>7 A. That was my testimony on the floor --</p> <p>8 Q. Okay.</p> <p>9 A. -- and in the committee.</p> <p>10 Q. Why was it important to your district?</p> <p>11 MR. SWEETEN: You can provide an answer to the</p> <p>12 extent that you're relying upon matters of public record,</p> <p>13 including committee hearings, floor debates, but do not reveal</p> <p>14 thoughts, mental impressions or opinions about the legislation</p> <p>15 relating to Senate Bill 14.</p> <p>16 THE WITNESS: As in --</p> <p>17 MR. SWEETEN: Tell him --</p> <p>18 MR. FREEMAN: There's a question pending.</p> <p>19 A. As in -- as in my points that I spoke about in</p> <p>20 committee and on the floor, it was important to protect the</p> <p>21 integrity of the election process.</p> <p>22 Q. Did any constituents ever volunteer information to you</p> <p>23 related to this issue and the importance of it?</p> <p>24 MR. SWEETEN: I think you're asking at this point</p> <p>25 about a communication between a constituent and Representative</p>
<p style="text-align: right;">46</p> <p>1 other than the school election funding bill and bills related to</p> <p>2 photographic voter ID?</p> <p>3 A. Not that I recall.</p> <p>4 Q. Okay. Why were you more interested in</p> <p>5 election-related matters in the 82nd legislature?</p> <p>6 MR. SWEETEN: I'm going to caution the witness to</p> <p>7 not reveal thoughts, mental impressions or opinions about</p> <p>8 legislation, including Senate Bill 14, or communications</p> <p>9 surrounding that. You're free to include matters of public</p> <p>10 record.</p> <p>11 A. I think testimony on the floor was that it was a bill</p> <p>12 that was important to my district.</p> <p>13 Q. Okay. How do you usually communicate with your</p> <p>14 legislative colleagues?</p> <p>15 A. One-on-one.</p> <p>16 Q. Okay. So in person on the floor?</p> <p>17 A. Yes.</p> <p>18 Q. Do you ever send e-mails between legislators?</p> <p>19 A. I think that's privileged.</p> <p>20 MR. SWEETEN: I'm going to let you testify as to</p> <p>21 the means of communication, in other words, if you've talked to</p> <p>22 them, if you've sent e-mails. But as far as the substance of</p> <p>23 that, you're right, that is privileged. So you can just say if</p> <p>24 you've e-mailed. You can answer that question.</p> <p>25 A. I would bet I probably have e-mailed, but I could not</p>	<p style="text-align: right;">48</p> <p>1 Harless. I believe that that's within the scope of the</p> <p>2 legislative privilege.</p> <p>3 So my instruction to you will be not to answer that</p> <p>4 question.</p> <p>5 A. On advice from my counsel, I can't answer that</p> <p>6 question because it's privileged conversation.</p> <p>7 Q. Thank you. So back to communications with legislative</p> <p>8 colleagues. Sorry to be back and forth it like that. Do you</p> <p>9 ever communicate with your legislative colleagues via text</p> <p>10 messaging?</p> <p>11 A. Yes.</p> <p>12 Q. Do you do that from your office, between offices?</p> <p>13 When you're in your office, would you use your phone to</p> <p>14 text-message other colleagues?</p> <p>15 A. Possibly to see if they're in their office.</p> <p>16 Q. And do you use your phone for texting on the floor?</p> <p>17 A. Yes.</p> <p>18 Q. And when you e-mail with your legislative colleagues,</p> <p>19 do you use your official House account?</p> <p>20 A. Yes --</p> <p>21 Q. Do you --</p> <p>22 A. -- both.</p> <p>23 Q. You use your personal account as well?</p> <p>24 A. Could possibly.</p> <p>25 Q. Is your personal account subject to disclosure under</p>

<p style="text-align: right;">53</p> <p>1 Q. How are they kept?</p> <p>2 A. The computer documents?</p> <p>3 Q. We can start with that.</p> <p>4 A. I think House administration has a policy that</p> <p>5 documents are saved and purged after 30 days. I'm not sure of</p> <p>6 the procedures in the office on paper documents.</p> <p>7 Q. Are e-mails purged after 30 days, or is -- is that all</p> <p>8 electronic documents?</p> <p>9 A. House administration has a policy. I'm not specific</p> <p>10 of it. I just know that there's a 30-day window.</p> <p>11 Q. Okay. And do you save files on your X drive?</p> <p>12 A. I don't know what their procedures are.</p> <p>13 Q. But when you're saving a file, if you were working in</p> <p>14 a -- in a Word document, where would you save it?</p> <p>15 A. If I hit the save button, and I don't know where it</p> <p>16 puts it.</p> <p>17 Q. Okay. Is that -- does Mr. Beuck find the documents</p> <p>18 for you?</p> <p>19 A. Yes, he does.</p> <p>20 Q. Okay. Are you familiar with the term "X drive"?</p> <p>21 A. I've heard them say that before.</p> <p>22 Q. Are you familiar with the term "Y drive"?</p> <p>23 A. I've heard them say that before as well.</p> <p>24 Q. Are you familiar with the distinction?</p> <p>25 A. No.</p>	<p style="text-align: right;">55</p> <p>1 A. I'm a delegator. Sorry.</p> <p>2 Q. That's fine. Do you ever archive your e-mail?</p> <p>3 A. I don't.</p> <p>4 Q. Does anyone else archive your e-mail for you?</p> <p>5 A. I think there has been -- I think they may have in the</p> <p>6 past. I don't know for sure.</p> <p>7 Q. Okay. Do you believe that compliance with the Texas</p> <p>8 Constitution is an important consideration in the law-making</p> <p>9 process?</p> <p>10 A. Compliance with the Texas Constitution is an important</p> <p>11 process --</p> <p>12 Q. Important consideration in the law-making process?</p> <p>13 A. Yes.</p> <p>14 Q. How do you ensure, when you're submitting a bill or</p> <p>15 voting on a bill, that the bill complies with the Texas</p> <p>16 Constitution?</p> <p>17 A. I --</p> <p>18 MR. SWEETEN: Hold on a second. I want you to make</p> <p>19 sure that you're not revealing thoughts, mental impressions or</p> <p>20 opinions about specific legislation. If he's asking you as a</p> <p>21 general matter or if it's something that relates to something</p> <p>22 that you've said publicly, you can answer that, but not as to</p> <p>23 specific legislation. Okay?</p> <p>24 A. As a general matter, I rely on Leg Council.</p> <p>25 Q. Okay. Anyone else?</p>
<p style="text-align: right;">54</p> <p>1 Q. Okay. If you had a personal document that you were</p> <p>2 working on, on your office computer because you're there for the</p> <p>3 whole session, where would you save it; do you know?</p> <p>4 A. I'd have hit the save button, and wherever it puts it.</p> <p>5 I'm sorry.</p> <p>6 Q. That's fine. That's fine.</p> <p>7 A. I would love to give you more information, but I gripe</p> <p>8 about the computer, so --</p> <p>9 Q. Okay. So do you know -- just to be certain, do you</p> <p>10 know if files, electronic files, are saved separately for</p> <p>11 different pieces of legislation?</p> <p>12 A. I don't know what their procedure is.</p> <p>13 Q. But you don't move them around?</p> <p>14 A. I don't.</p> <p>15 Q. Okay. Do you have -- related to paper documents,</p> <p>16 where are those kept in your office?</p> <p>17 A. I don't set up the procedures of how they organize the</p> <p>18 office, but I know we have several lateral files.</p> <p>19 Q. Okay. And do you have any kind of procedure related</p> <p>20 to how long those files are kept?</p> <p>21 A. I don't.</p> <p>22 Q. Do you have any procedure for how they are -- how they</p> <p>23 are arranged?</p> <p>24 A. I don't.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">56</p> <p>1 A. No.</p> <p>2 Q. And so does Leg Council submit a determination as to</p> <p>3 whether a given bill -- an opinion as to whether it complies</p> <p>4 with the Texas Constitution?</p> <p>5 A. I'm not aware of their procedures.</p> <p>6 Q. Do you know if anyone else provides a formal opinion</p> <p>7 as to whether a bill complies with the Texas Constitution?</p> <p>8 A. I'm not aware of if there are any.</p> <p>9 Q. So would it be fair to say that your process is to</p> <p>10 rely solely on Leg Council with regard to the question of</p> <p>11 whether a given bill relies -- or complies with the Texas</p> <p>12 Constitution?</p> <p>13 A. That would be my impression, yes.</p> <p>14 Q. Okay. Do you believe that compliance with federal law</p> <p>15 is an important consideration in the law-making process?</p> <p>16 MR. SWEETEN: Same instruction.</p> <p>17 A. I assume that the agencies do that.</p> <p>18 Q. But in term --</p> <p>19 A. Leg Council.</p> <p>20 Q. Okay. And how do you ensure that -- that there is</p> <p>21 compliance with federal law when you're drafting a bill?</p> <p>22 A. I rely on Leg Council.</p> <p>23 Q. And how do you ensure that you're complying</p> <p>24 with -- with federal law when you're voting on a bill?</p> <p>25 A. I rely on Leg Council's draft.</p>

<p style="text-align: right;">57</p> <p>1 Q. Okay. Leg Council's draft, what do you mean by that?</p> <p>2 A. The -- drafting the legislation.</p> <p>3 Q. Okay. Do you believe with -- that compliance with the</p> <p>4 federal Voting Rights Act is an important consideration in the</p> <p>5 law-making process?</p> <p>6 A. Yes.</p> <p>7 Q. Prior to passage, did you understand that S.B. 14</p> <p>8 would be subject to preclearance under Section 5 of the Voting</p> <p>9 Rights Act?</p> <p>10 A. The record on the floor was that I did.</p> <p>11 Q. I'm asking about your personal understanding, not</p> <p>12 the record on the floor.</p> <p>13 MR. SWEETEN: And don't reveal your thoughts,</p> <p>14 mental impressions or opinions about legislation, including</p> <p>15 specifically Senate Bill 14. You can rely on matters of the</p> <p>16 public record as you have. Go ahead.</p> <p>17 A. On the floor, I stated that.</p> <p>18 Q. Okay. How did you act on this consideration, this</p> <p>19 issue, when you were drafting S.B. 14?</p> <p>20 A. How did I act?</p> <p>21 Q. Yeah.</p> <p>22 MR. SWEETEN: He's -- the question is -- and I</p> <p>23 want to make sure that you are not revealing any mental</p> <p>24 impressions or opinions about legislation. Okay? That also</p> <p>25 includes all these -- all the communications that we've</p>	<p style="text-align: right;">59</p> <p>1 Leg Council with regard to whether S.B. 14 relied -- complied</p> <p>2 with the federal Voting Rights Act. Is there a written document</p> <p>3 setting out Leg Council's opinion with regard to Voting Rights</p> <p>4 Act compliance?</p> <p>5 A. I'm not aware.</p> <p>6 Q. And so was it solely Leg Council's drafting of the</p> <p>7 bill that you were relying on?</p> <p>8 MR. SWEETEN: Objection, assumes facts not in</p> <p>9 evidence. Also assumes -- also, you're asking her to reveal</p> <p>10 mental impressions, opinions about legislation, including Senate</p> <p>11 Bill 14.</p> <p>12 A. On advice from my counsel, I can't answer that.</p> <p>13 Q. Okay. Was there any other formal opinion that you</p> <p>14 received or read or reviewed as to whether S.B. 14 complied with</p> <p>15 the Federal Voting Rights Act?</p> <p>16 MR. SWEETEN: Don't reveal your mental</p> <p>17 impressions, opinions about legislation or your thoughts about</p> <p>18 the legislation. Okay? You can answer to the extent that --</p> <p>19 that you can refer to the public record on this issue.</p> <p>20 Otherwise, don't answer.</p> <p>21 MR. FREEMAN: Mr. Sweeten, this is a privileged</p> <p>22 log type of question. I'm asking you about the existence of the</p> <p>23 document.</p> <p>24 MR. SWEETEN: Okay. And let me explain that to</p> <p>25 her.</p>
<p style="text-align: right;">58</p> <p>1 outlined, constituents, state agencies, legislators, legislative</p> <p>2 staff or the Texas Legislative Council.</p> <p>3 Q. Do you need me to rephrase?</p> <p>4 A. Please.</p> <p>5 Q. Okay. What actions did you take or changes did you</p> <p>6 make in consideration of the fact that S.B. 14 would have to be</p> <p>7 submitted for preclearance under Section 5 of the Voting Rights</p> <p>8 Act?</p> <p>9 MR. SWEETEN: Don't answer that question except</p> <p>10 to the extent that it's a matter of public record. It's</p> <p>11 legislatively privileged.</p> <p>12 A. On advice from my attorney, I'm not answering that</p> <p>13 question.</p> <p>14 Q. Thank you. And what -- when you were voting on S.B.</p> <p>15 14, how did you take into account the Voting Rights Act</p> <p>16 compliance of the bill?</p> <p>17 MR. SWEETEN: Same instruction.</p> <p>18 A. Can you explain what you're asking?</p> <p>19 Q. When you were voting on the bill, in what way did you</p> <p>20 consider whether the bill complied with the federal Voting</p> <p>21 Rights Act?</p> <p>22 MR. SWEETEN: Same instruction. Don't reveal</p> <p>23 mental impressions, opinions about legislation.</p> <p>24 A. On advice from my counsel, I can't answer that.</p> <p>25 Q. Okay. Thank you. Now, you've said that you relied on</p>	<p style="text-align: right;">60</p> <p>1 MR. FREEMAN: Sure.</p> <p>2 MR. SWEETEN: During the course of today's</p> <p>3 deposition, there may be moments where he's attempting to</p> <p>4 establish if it -- the existence of a specific type of document.</p> <p>5 There's a line there, however. We're not going to disclose;</p> <p>6 we're going to just --</p> <p>7 THE WITNESS: An existence of the --</p> <p>8 MR. SWEETEN: Yeah. Just let me tell you. There</p> <p>9 is a line there that we're not going to disclose the substance</p> <p>10 of what's in that document, but he can ask questions about, for</p> <p>11 example, if a document exists or the date of a document.</p> <p>12 However, do not reveal what's contained in the document. So</p> <p>13 with that instruction, if you can answer that, then go ahead and</p> <p>14 do so.</p> <p>15 A. Can you ask your question again.</p> <p>16 Q. Sure.</p> <p>17 MR. FREEMAN: If we could have the court reporter read</p> <p>18 it back.</p> <p>19 THE REPORTER: Sure. Question: "Okay. Was there any</p> <p>20 other formal opinion that you received or read or reviewed as to</p> <p>21 whether S.B. 14 complied with the federal Voting Rights Act?"</p> <p>22 A. My testimony on the floor was that we looked at the</p> <p>23 legislation drafted from Georgia and Indiana and drafted and</p> <p>24 filed our legislation along those lines.</p> <p>25 Q. I'll repeat my question. Was there any formal opinion</p>

<p style="text-align: right;">61</p> <p>1 with regard to S.B. 14 that you read or reviewed in drafting or</p> <p>2 voting on the bill with regard to its compliance with the</p> <p>3 federal Voting Rights Act?</p> <p>4 A. I can't answer that.</p> <p>5 Q. So are you not aware of any such opinion issued by TLC</p> <p>6 or anyone else?</p> <p>7 A. TLC is?</p> <p>8 Q. The Legislative Council.</p> <p>9 A. I can't recall. I don't remember.</p> <p>10 Q. Now, the Legislative Council, their job is to draft</p> <p>11 bills based on the substantive suggestions of legislators or</p> <p>12 legislative staff; is that correct?</p> <p>13 A. That is my understanding.</p> <p>14 Q. And so if a legislator asks for a substantive change</p> <p>15 to be in a bill, TLC will include it in that bill; is that</p> <p>16 correct?</p> <p>17 A. That's privileged, and our discussion is privileged</p> <p>18 with Leg Council.</p> <p>19 Q. So I think in terms of objections about privilege, I'm</p> <p>20 going to ask that your counsel make those objections. Because</p> <p>21 unless you are submitting -- even assuming that there is an</p> <p>22 attorney/client privilege with Legislative Council, which the</p> <p>23 United States does not -- or the attorney general does not</p> <p>24 believe there is, the only privileged communications are going</p> <p>25 to be confidential communications. I'm asking about the</p>	<p style="text-align: right;">63</p> <p>1 MR. SWEETEN: As a general matter, you're asking?</p> <p>2 MR. FREEMAN: As a general matter.</p> <p>3 A. I'm not sure what their procedures are. I know the</p> <p>4 legislature relies on their legal interpretation and following</p> <p>5 all federal and state statutes prior to drafting.</p> <p>6 Q. How is their legal interpretation a part of the draft</p> <p>7 bill that you received from them after submitting a substantive</p> <p>8 request?</p> <p>9 A. I don't know what their procedures are. I know that</p> <p>10 we request legislation based on accomplishing a goal, and I</p> <p>11 don't know what their procedures are after that.</p> <p>12 Q. And if a legislator were to submit a request to Leg</p> <p>13 Council for a bill that would raise the voting age in Texas to</p> <p>14 25, is it your understanding that Leg Council would say to that</p> <p>15 legislator, no, I will not do that?</p> <p>16 A. You're asking me to speculate on what their</p> <p>17 conversation is with another member. I can't do that. I don't</p> <p>18 know.</p> <p>19 Q. I'm just trying to understand how the agency works.</p> <p>20 A. Yeah.</p> <p>21 Q. I don't want you to speculate. So if you don't know</p> <p>22 how the agency works --</p> <p>23 A. I don't.</p> <p>24 Q. Okay. So what is the basis for your reliance on the</p> <p>25 fact that Leg Council drafted a bill for the fact that it would</p>
<p style="text-align: right;">62</p> <p>1 function of the -- the legislative agency.</p> <p>2 So I'm asking if Legislative Council were to</p> <p>3 receive an instruction from a legislator to include a particular</p> <p>4 substantive provision in a bill, would it be within the role of</p> <p>5 Legislative Council to reject that request?</p> <p>6 A. I don't know how other members do their relationship</p> <p>7 with Leg Council.</p> <p>8 Q. Okay. In your experience as a legislator, has Leg</p> <p>9 Council ever rejected a substantive request that you've asked</p> <p>10 for legislation that you've submitted to them for drafting?</p> <p>11 A. I can't recall that they -- that we've asked a</p> <p>12 substantive change.</p> <p>13 Q. Well, for example, if you submitted something to Leg</p> <p>14 Council saying I would like you to draft legislation that will</p> <p>15 decrease the gasoline tax in Texas by a penny per gallon, would</p> <p>16 they draft that legislation for you, or would they -- would</p> <p>17 they, in some cases, say, no, we can't do that?</p> <p>18 A. They would draft the legislation. I don't know if</p> <p>19 they would say no.</p> <p>20 Q. Have they ever said no?</p> <p>21 A. Not that I recall, but I don't have the one-on-one</p> <p>22 communications with Leg Council.</p> <p>23 Q. So how does the fact that Leg Council drafted a bill</p> <p>24 based on these substantive requests of legislators or staff</p> <p>25 indicate that the bill complies with the Texas Constitution?</p>	<p style="text-align: right;">64</p> <p>1 comply with the Texas Constitution?</p> <p>2 MR. SWEETEN: As a general matter?</p> <p>3 MR. FREEMAN: As a general matter.</p> <p>4 A. As a general matter, they're the agency that has the</p> <p>5 sole responsibility of making sure the legislation is drafted</p> <p>6 properly, correctly and meets all the standards.</p> <p>7 Q. Okay.</p> <p>8 A. That's my opinion of what their role.</p> <p>9 Q. Okay. And if I could just shift that over. What is</p> <p>10 the basis for your reliance on the fact that Leg Council drafted</p> <p>11 a bill for the fact that it complies with Section 5 of the</p> <p>12 Voting Rights Act?</p> <p>13 A. It's my reliance that they draft all legislation that</p> <p>14 comply with federal and state rules and laws.</p> <p>15 Q. Has Leg Council ever drafted a bill that did not</p> <p>16 comply with the Voting Rights Act?</p> <p>17 A. I don't know.</p> <p>18 Q. Has the United States Supreme Court ever found that a</p> <p>19 Texas redistricting violated Section 5 of the Voting Rights Act?</p> <p>20 MR. SWEETEN: If you know.</p> <p>21 Q. If you know.</p> <p>22 A. I don't know.</p> <p>23 Q. Are you aware of whether any Texas redistricting has</p> <p>24 ever been struck down by the Texas -- by the United States</p> <p>25 Supreme Court?</p>

<p style="text-align: right;">69</p> <p>1 (Recess from 11:18 a.m. to 11:20 a.m.)</p> <p>2 MR. SWEETEN: Yesterday there -- at the tail end,</p> <p>3 Mr. Rosenberg's question was about -- was to Mr. Beuck, and at</p> <p>4 that time, as an -- as an attorney and someone who has spoken</p> <p>5 with Representative Harless, he asserted the attorney/client</p> <p>6 privilege. Obviously, that is hers as a potential client to</p> <p>7 waive. So with respect to -- at this point, we're going to</p> <p>8 allow her to answer that question, and we're not -- we obviously</p> <p>9 are still maintaining our assertion of legislative privilege.</p> <p>10 MR. FREEMAN: Uh-huh.</p> <p>11 MR. SWEETEN: But as to the questioning regarding</p> <p>12 attorney/client privilege, Representative Harless is not going</p> <p>13 to stand by that privilege. So she will --</p> <p>14 MR. FREEMAN: Okay.</p> <p>15 MR. SWEETEN: -- answer your question.</p> <p>16 MR. FREEMAN: Okay.</p> <p>17 A. I've had a conversation with my chief of staff on</p> <p>18 privilege.</p> <p>19 Q. Okay. And what was the substance of that</p> <p>20 conversation?</p> <p>21 A. The affidavit that we submitted in the privilege.</p> <p>22 Q. And did you discuss whether you would agree to that</p> <p>23 affidavit?</p> <p>24 A. Yes.</p> <p>25 Q. And did you ever discuss considerations against</p>	<p style="text-align: right;">71</p> <p>1 Q. Do you have copies of the affidavit? Sorry. Strike</p> <p>2 that.</p> <p>3 Did you -- sorry. Strike that as well.</p> <p>4 Did you ever have discussions with other legislators</p> <p>5 concerning their decision not to assert legislative privilege in</p> <p>6 the redistricting litigation?</p> <p>7 A. No.</p> <p>8 Q. Did you ever have conversations with other legislators</p> <p>9 concerning their decision to testify in the redistricting</p> <p>10 litigation?</p> <p>11 A. Not that I know of.</p> <p>12 Q. Did you ever have discussions with other legislators</p> <p>13 concerning their testimony in the redistricting litigation?</p> <p>14 A. Not that I remember.</p> <p>15 Q. Are you aware of any other instances where legislators</p> <p>16 have asserted the legislative privilege in litigation with the</p> <p>17 federal government?</p> <p>18 A. I wouldn't have a way of knowing that.</p> <p>19 Q. So you're not aware of any other instances?</p> <p>20 A. Not -- I would have no way of knowing that.</p> <p>21 Q. Okay. Let's turn to a different subject.</p> <p>22 When were you first elected?</p> <p>23 A. 2006, sworn in 2007.</p> <p>24 Q. Did you have a primary?</p> <p>25 A. I did.</p>
<p style="text-align: right;">70</p> <p>1 agreeing to assert legislative privilege in this case?</p> <p>2 A. No. Can you ask that again so that I understand</p> <p>3 completely what you're asking?</p> <p>4 Q. Sure. Did you ever discuss reasons why you might not</p> <p>5 want to discuss -- or might not want to agree to assert the</p> <p>6 legislative privilege in this case?</p> <p>7 MR. SWEETEN: Okay. Let me also say that</p> <p>8 obviously any conversation that you had, if Mr. Beuck was</p> <p>9 present with me or with any of the members the attorney</p> <p>10 general's office, is a privileged conversation. Do not reveal</p> <p>11 any matters discussed within those conversations.</p> <p>12 A. The only conversation Colby and I had was about</p> <p>13 signing the affidavit on privileged motions.</p> <p>14 Q. And was the idea to assert legislative privilege in</p> <p>15 this case, did that originate in your office?</p> <p>16 A. I --</p> <p>17 MR. SWEETEN: Do not reveal any conversations</p> <p>18 that you've had with attorneys for the attorney general's</p> <p>19 office. If answering that question would do so, do not answer</p> <p>20 the question.</p> <p>21 A. I can't answer that question because it would reveal</p> <p>22 private conversations.</p> <p>23 Q. I understand. Have you ever asserted legislative</p> <p>24 privilege in any other matter?</p> <p>25 A. Not that I recall.</p>	<p style="text-align: right;">72</p> <p>1 Q. Was it an open seat?</p> <p>2 A. Yes.</p> <p>3 Q. And who was your opponent in the primary?</p> <p>4 A. Judge John Devine.</p> <p>5 Q. Is he still a sitting judge?</p> <p>6 A. No.</p> <p>7 Q. Was he a sitting judge at the time?</p> <p>8 A. No.</p> <p>9 Q. He was a former judge?</p> <p>10 A. Yes.</p> <p>11 Q. And how did you distinguish yourself from your</p> <p>12 opponent in that election?</p> <p>13 A. As the community activist and a long-time resident of</p> <p>14 the district.</p> <p>15 Q. Did you campaign on any particular issues?</p> <p>16 A. I'm sure we did --</p> <p>17 Q. Do you --</p> <p>18 A. -- the same ones.</p> <p>19 Q. Do you recall what those issues were?</p> <p>20 A. Not exactly, but my stance has always been</p> <p>21 probusiness, limited government, personal responsibility.</p> <p>22 Q. Okay. Do you consider Devine to be conservative?</p> <p>23 A. He considers himself to be conservative. He's running</p> <p>24 for U.S. Supreme Court judge against David Medina, so --</p> <p>25 Q. You mean Texas Supreme Court?</p>

<p style="text-align: right;">77</p> <p>1 A. Uh-huh.</p> <p>2 Q. And was it a close race?</p> <p>3 A. No.</p> <p>4 Q. Do you know how many points you won by?</p> <p>5 A. No.</p> <p>6 Q. Do you know how many points you won by in 2006?</p> <p>7 A. 2006, in my primary, it was really close in the</p> <p>8 general. It was 60, in the 60s.</p> <p>9 Q. Okay.</p> <p>10 A. In 2008, I think it was in the 60s again.</p> <p>11 Q. Congratulations.</p> <p>12 A. I got eight points above McCain, which meant that I</p> <p>13 reached out to my district.</p> <p>14 Q. And sorry. Just to jump back to 2006 real quickly.</p> <p>15 Do you know what the turnout was in the general</p> <p>16 election?</p> <p>17 A. In the general, I can't say exactly. I think it was</p> <p>18 anywhere from 7 to 12,000.</p> <p>19 Q. And do you know in 2008 what the turnout was?</p> <p>20 A. I -- it was more --</p> <p>21 Q. Okay.</p> <p>22 A. -- but I don't know how much more.</p> <p>23 Q. And do you remember what issues you campaigned on in</p> <p>24 2008?</p> <p>25 A. The same issues in 2006.</p>	<p style="text-align: right;">79</p> <p>1 the integrity of the election process in photo voter ID.</p> <p>2 Q. Okay. And do you remember what the turnout was like</p> <p>3 in 2010?</p> <p>4 A. I don't.</p> <p>5 Q. Do you know if it was different at all from 2008?</p> <p>6 A. I think it was about the same.</p> <p>7 Q. As 2008?</p> <p>8 A. Yeah. Maybe a little less. I can't remember.</p> <p>9 Q. So it was higher than 2006; is that correct?</p> <p>10 A. I would be guessing.</p> <p>11 Q. Okay.</p> <p>12 A. I could have checked that if I'd have known, but --</p> <p>13 Q. It's all right.</p> <p>14 A. I have it in a file on my desk.</p> <p>15 Q. It's all right.</p> <p>16 I'm going to actually ask and see if we can find --</p> <p>17 this might be one of those circumstances where documents can</p> <p>18 refresh your recollection, and I'm going to try and remember it,</p> <p>19 and we'll come back to it -- it will be a little bit out of</p> <p>20 order.</p> <p>21 A. Okay.</p> <p>22 Q. Do you remember, did you vote in favor of S.B. 1</p> <p>23 budget measure?</p> <p>24 A. This session?</p> <p>25 Q. I believe it was this session, yes.</p>
<p style="text-align: right;">78</p> <p>1 Q. So you don't recall specifically whether you</p> <p>2 campaigned on election issues or voter ID?</p> <p>3 A. No, not specifically, but it's possible on integrity</p> <p>4 of the election.</p> <p>5 Q. Okay. And in 2010, did you have a primary?</p> <p>6 A. No.</p> <p>7 Q. And did you have a general election opponent?</p> <p>8 A. Yes.</p> <p>9 Q. And who was that?</p> <p>10 A. Casey McKinney.</p> <p>11 Q. And do you remember what issues you campaigned on in</p> <p>12 2010?</p> <p>13 A. Education, business, limited government, some</p> <p>14 immigration issues and community issues.</p> <p>15 Q. And what immigration issues did you campaign on?</p> <p>16 A. From the literature, providing -- I'm trying to</p> <p>17 remember how to phrase it -- providing verification when</p> <p>18 employers hire employees.</p> <p>19 Q. Okay. Different from the I-9 process?</p> <p>20 A. Yes, through the E-Verify.</p> <p>21 Q. Okay. But that's also a federal program, correct?</p> <p>22 A. Right.</p> <p>23 Q. Okay. Did -- and do you recall if you campaigned on</p> <p>24 voter ID as an issue?</p> <p>25 A. I think -- I think we did. I think we talked about</p>	<p style="text-align: right;">80</p> <p>1 A. I think I did. I can't remember.</p> <p>2 Q. You don't recall?</p> <p>3 A. I don't.</p> <p>4 Q. Okay.</p> <p>5 A. I may have voted against it. There was one bill I</p> <p>6 voted against most of the members on, and I don't remember if</p> <p>7 that was it.</p> <p>8 Q. Do you recall why you voted against a bill that most</p> <p>9 of the -- do you mean most of the republican members or most of</p> <p>10 the members of the House as a whole?</p> <p>11 A. Most --</p> <p>12 MR. SWEETEN: And I don't want you to reveal your</p> <p>13 thoughts, mental impression or opinions about legislation or why</p> <p>14 you specifically voted for something. I don't want you to</p> <p>15 reveal that unless it's a matter of public record, something</p> <p>16 expressed publicly.</p> <p>17 A. I think I publicly went to the microphone and said I</p> <p>18 was disappointed in the funding cuts in education.</p> <p>19 Q. Okay. And so that was a -- so that was the -- that</p> <p>20 was a republican sponsored bill, correct?</p> <p>21 A. Yes, I think so.</p> <p>22 Q. Where do you fall in the political spectrum within the</p> <p>23 republican delegation to the Texas House?</p> <p>24 A. You mean as number?</p> <p>25 Q. Well, if -- to the far, far right or towards the</p>



<p style="text-align: right;">81</p> <p>1 middle?</p> <p>2 A. I consider myself an independent.</p> <p>3 Q. Okay.</p> <p>4 A. And my record reflects that.</p> <p>5 Q. Okay. Do you have a primary coming up?</p> <p>6 A. No.</p> <p>7 Q. Glad we didn't keep you away from that. That might</p> <p>8 have been hard. So I'm glad this wasn't a problem.</p> <p>9 Congratulations on that.</p> <p>10 A. Thank you. Thank you.</p> <p>11 Q. How would you describe your current district, the one</p> <p>12 from which you were elected in -- in 2010?</p> <p>13 A. What do you mean by describe it, the -- the</p> <p>14 boundaries?</p> <p>15 Q. The constituents. So in terms of the work they do,</p> <p>16 socioeconomic class, ethnicity.</p> <p>17 A. My boundaries are very diverse. I live in</p> <p>18 unincorporated Harris County --</p> <p>19 Q. Okay.</p> <p>20 A. -- which has no city rules or regulation. The area is</p> <p>21 1.5 million people, and if it were a city, it would be the fifth</p> <p>22 largest city in the United States without any type of city</p> <p>23 government, which is the reason I have a lot of constituent</p> <p>24 inquiries, because I'm their first level.</p> <p>25 Q. Is there no county government?</p>	<p style="text-align: right;">83</p> <p>1 A. Okay.</p> <p>2 Q. So does that indicate that this is combined</p> <p>3 majority --</p> <p>4 A. Black and Hispanic.</p> <p>5 Q. -- minority?</p> <p>6 So that's in your current district, correct?</p> <p>7 A. When you say current, this is --</p> <p>8 Q. The district from which you were elected in the -- in</p> <p>9 2010.</p> <p>10 A. Well, this is the 2010 census numbers --</p> <p>11 Q. Yes.</p> <p>12 A. -- so I was elected in a district that reflected</p> <p>13 different numbers.</p> <p>14 Q. But in 2010, that was the district from which you were</p> <p>15 elected, correct?</p> <p>16 A. I disagree with that because of the fact that these</p> <p>17 are 2010 census numbers, which we didn't get until January of</p> <p>18 2011. And so the district I was elected in and voted for,</p> <p>19 though these were certified after 2010, this was not the numbers</p> <p>20 I was relying on.</p> <p>21 Q. Are you -- not in terms of reliance, but are you aware</p> <p>22 of what date the census reflects the population on?</p> <p>23 A. They started, I want to say, in May.</p> <p>24 Q. Are you aware that the census reflects April 1st,</p> <p>25 2010?</p>
<p style="text-align: right;">82</p> <p>1 A. There's county commissioners, but typically the</p> <p>2 constituents come to me to get response from county government.</p> <p>3 Q. Okay.</p> <p>4 A. It's very economically diverse. One of my school</p> <p>5 districts, I represent Spring, is at close to 70 percent free</p> <p>6 and reduced lunches. Cy-Fair is becoming more economically</p> <p>7 diversified and probably approaching 50 percent free or reduced</p> <p>8 lunches. I have a broad mix of people from bus riders that</p> <p>9 don't buy cars to people that have several cars.</p> <p>10 Q. And are you aware of the -- the racial make-up of your</p> <p>11 district?</p> <p>12 A. Not specifically. I would say it's probably over</p> <p>13 50 percent Caucasian.</p> <p>14 MR. FREEMAN: We can mark this as U.S. 14.</p> <p>15 (Exhibit No. 14 marked)</p> <p>16 Q. Have you ever seen this document before or a document</p> <p>17 similar to it?</p> <p>18 A. Similar to it, yes, sir.</p> <p>19 Q. And if you can go to District 126. And if you can</p> <p>20 look at the percent BH column under population and the total.</p> <p>21 A. Uh-huh.</p> <p>22 Q. Do you see what percentage population for your</p> <p>23 district?</p> <p>24 A. Am I reading it in the right column of 51.2?</p> <p>25 Q. Yes.</p>	<p style="text-align: right;">84</p> <p>1 A. No.</p> <p>2 Q. Okay. But it's the 2010 census, correct?</p> <p>3 A. Yes. I know we got the information in 2011.</p> <p>4 Q. Okay. So as of the 2010 election, is it your</p> <p>5 understanding, after seeing this document, that the district</p> <p>6 from which you were elected is -- the population is majority</p> <p>7 either black or Hispanic?</p> <p>8 A. Yes.</p> <p>9 Q. Okay.</p> <p>10 A. From this document.</p> <p>11 Q. Yes.</p> <p>12 And do you see on the top right-hand corner where the</p> <p>13 document is produced from?</p> <p>14 A. Top right-hand, Texas Legislative Council.</p> <p>15 Q. Okay. Thank you. Were the demographics of your</p> <p>16 district trending over the last decade?</p> <p>17 A. Yes.</p> <p>18 Q. And in what way were they trending?</p> <p>19 A. I think more minority population.</p> <p>20 Q. Okay. Now, you said before that you were on</p> <p>21 Redistricting; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. And what was your involvement in the map that was</p> <p>24 passed by the legislature last spring?</p> <p>25 MR. SWEETEN: Hold on a second. I think the</p>

<p style="text-align: right;">89</p> <p>1 that legislation that was passed. Do you understand that</p> <p>2 distinction?</p> <p>3 THE WITNESS: Yes.</p> <p>4 MR. SWEETEN: Okay. And with that, you can go</p> <p>5 ahead and answer his question.</p> <p>6 A. The district passed during session, the San Antonio</p> <p>7 district and my previous district and now the court ordered</p> <p>8 district were all fine with me.</p> <p>9 Q. But how would you describe the new district in terms</p> <p>10 of --</p> <p>11 A. It --</p> <p>12 Q. -- differences from the old district?</p> <p>13 A. It has different boundaries. It goes further north.</p> <p>14 I think that there -- it's probably more -- more houses, more</p> <p>15 developments, less industry.</p> <p>16 Q. Okay. Is there any difference in the demographics in</p> <p>17 terms of the racial communities?</p> <p>18 A. To be honest, to be absolutely honest, I have never</p> <p>19 looked at that.</p> <p>20 Q. Okay. Let's take a look.</p> <p>21 MR. FREEMAN: If we can mark this as U.S. 15.</p> <p>22 (Exhibit No. 15 marked)</p> <p>23 Q. And can you tell me, for District 126, is it still a</p> <p>24 majority minority district?</p> <p>25 A. From the Leg Council sheet that you have given me --</p>	<p style="text-align: right;">91</p> <p>1 district.</p> <p>2 MR. SWEETEN: Is your question following passage?</p> <p>3 MR. FREEMAN: My question is related to the</p> <p>4 demographics of greater than 50 percent or lesser than</p> <p>5 50 percent.</p> <p>6 MR. SWEETEN: I'm going to object, calls for</p> <p>7 speculation. I'm going to let her answer that question about</p> <p>8 after passage of the bill because I don't think that you're</p> <p>9 asking her to reveal mental impressions about the passage of the</p> <p>10 bill; you're asking her as it stands now --</p> <p>11 MR. FREEMAN: Yes.</p> <p>12 MR. SWEETEN: -- how she would view that issue.</p> <p>13 Q. Based on your political knowledge of Harris County,</p> <p>14 your own election.</p> <p>15 MR. SWEETEN: Objection, calls for speculation.</p> <p>16 Go ahead.</p> <p>17 A. I was happy with my old district. I'm happy with my</p> <p>18 new district. I didn't care.</p> <p>19 Q. Okay. Are you a member of a group called the Texas</p> <p>20 Tea Republicans?</p> <p>21 A. Texas Tea Republican Womens Club.</p> <p>22 Q. Oh, okay. I don't think we need to show the exhibit.</p> <p>23 What is your involvement with that group?</p> <p>24 A. I pay dues to them annually.</p> <p>25 Q. Are you involved in leadership at all?</p>
<p style="text-align: right;">90</p> <p>1 Q. Uh-huh.</p> <p>2 A. -- on the House Plan 283, it shows that the percentage</p> <p>3 BH is 45.1, and my district that I ran in, in 2010 was 51.2. So</p> <p>4 that would make me 6.1 percent less minority than in the</p> <p>5 previous district I ran in.</p> <p>6 Q. Did you ask to eliminate the majority minority status</p> <p>7 of your district?</p> <p>8 A. No.</p> <p>9 MR. SWEETEN: Objection. Don't reveal any -- any</p> <p>10 mental impressions or communications that you had regarding any</p> <p>11 sort of bill.</p> <p>12 THE WITNESS: Okay.</p> <p>13 MR. SWEETEN: And give me time to make my</p> <p>14 objections.</p> <p>15 THE WITNESS: I'm sorry.</p> <p>16 Q. And would eliminating the majority minority status of</p> <p>17 your district make it easier for you to run for reelection?</p> <p>18 MR. SWEETEN: You're asking about the bill that</p> <p>19 was passed, and so I'm going to instruct her not to answer the</p> <p>20 question based on because it would reveal thoughts, mental</p> <p>21 impressions, opinions about legislation.</p> <p>22 MR. FREEMAN: Mr. Sweeten, I would say that's</p> <p>23 outside the scope of the bill and reflects the general issue of</p> <p>24 whether it would be easier for Representative Harless to run for</p> <p>25 reelection in a majority Anglo district or a majority minority</p>	<p style="text-align: right;">92</p> <p>1 A. No.</p> <p>2 Q. Do you attend meetings?</p> <p>3 A. Rarely. Maybe --</p> <p>4 Q. Do --</p> <p>5 A. -- once a year.</p> <p>6 Q. Do they send materials to you?</p> <p>7 A. They send e-mails out as a distribution, and I'm on</p> <p>8 that list as a member.</p> <p>9 Q. Do they discuss particular issues?</p> <p>10 MR. SWEETEN: Don't reveal communications you've</p> <p>11 had with -- with constituents. If it's a mass mailing and is of</p> <p>12 a public nature, I'll let you discuss that.</p> <p>13 A. They send out e-mails.</p> <p>14 Q. Okay. At the meetings you've attended, does this --</p> <p>15 has this group had a substantial number of minority individuals</p> <p>16 attending, black or Hispanic?</p> <p>17 A. I -- I don't -- I can't recall. I would say probably</p> <p>18 no.</p> <p>19 Q. Okay.</p> <p>20 A. I've attended maybe one meeting in a year.</p> <p>21 Q. Okay. And have they sent out any communications</p> <p>22 regarding voter ID?</p> <p>23 A. They send out communications every day that I usually</p> <p>24 delete.</p> <p>25 Q. Okay.</p>

<p style="text-align: right;">93</p> <p>1 A. They don't like me, and I don't like them.</p> <p>2 Q. Sorry to hear that.</p> <p>3 A. Sorry.</p> <p>4 MR. SWEETEN: Just answer the question.</p> <p>5 Q. Are you a member of the American Legislative Exchange</p> <p>6 Council?</p> <p>7 A. I am.</p> <p>8 Q. And what is your participation in the American</p> <p>9 Legislative Exchange Council?</p> <p>10 A. I've attended a couple of their conventions. I think</p> <p>11 the speaker appointed me to a task force on cable ready, but I</p> <p>12 can't --</p> <p>13 Q. Does the speaker -- you mean Speaker Straus?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And so Speaker Straus is also involved in the</p> <p>16 American Legislative Exchange Council?</p> <p>17 A. I don't know if he is or isn't.</p> <p>18 Q. Okay. Have you ever introduced bill language that was</p> <p>19 provided by the American Legislative Exchange Council?</p> <p>20 A. No.</p> <p>21 THE WITNESS: Sorry.</p> <p>22 Q. That's fine.</p> <p>23 MR. SWEETEN: That's okay. Don't reveal</p> <p>24 communications you've had with constituents. Okay? Don't</p> <p>25 reveal the substance of communications.</p>	<p style="text-align: right;">95</p> <p>1 instruct you at this time not to answer based upon the fact that</p> <p>2 that would invade legislative privilege, including</p> <p>3 communications with legislators, legislative staff, state</p> <p>4 agencies, Texas Legislative Council, constituents, as well as it</p> <p>5 would reveal your mental impressions regarding Senate Bill 14.</p> <p>6 That's my instruction. You can answer based upon the public</p> <p>7 record.</p> <p>8 A. If I recall in testimony on the floor, I stated the</p> <p>9 purpose was to protect the integrity of the election process and</p> <p>10 to deter and detect fraud.</p> <p>11 Q. Were there any other purposes?</p> <p>12 MR. SWEETEN: Same instruction. Same objection.</p> <p>13 A. Those are the ones that I recall that I mentioned on</p> <p>14 the floor.</p> <p>15 Q. And so any other purposes -- am I correct that you</p> <p>16 would not be stating any other purposes based on the instruction</p> <p>17 received from counsel?</p> <p>18 A. I can't recall anything else. I can't remember what</p> <p>19 all I discussed on the House floor.</p> <p>20 Q. Okay. Was the purpose of S.B. 14, in part, to</p> <p>21 decrease the number of Hispanic voters?</p> <p>22 MR. SWEETEN: I'm going to object to the</p> <p>23 question. The matter invades the legislative privilege, and --</p> <p>24 and I'm going to instruct Representative Harless not to answer</p> <p>25 that question because it reveals thoughts, mental impressions</p>
<p style="text-align: right;">94</p> <p>1 MR. FREEMAN: And, Mr. Sweeten, are you</p> <p>2 considering the American Legislative Exchange Council to be a</p> <p>3 constituent?</p> <p>4 MR. SWEETEN: To be honest with you, Mr. Freeman,</p> <p>5 I am not familiar with the American Legislative Exchange, but as</p> <p>6 you know, we -- we've defined constituents as those who live in</p> <p>7 the State of Texas, so --</p> <p>8 MR. FREEMAN: It's an organization also known as</p> <p>9 ALEC that is based outside of the State of Texas.</p> <p>10 MR. SWEETEN: I don't -- I think under our</p> <p>11 interpretation of what a constituent is, if you're asking if it</p> <p>12 originated -- information originated outside of the State of</p> <p>13 Texas, not from a Texas citizen, then -- then that's -- I don't</p> <p>14 think that that's covered under where we're asserting our</p> <p>15 privilege.</p> <p>16 MR. FREEMAN: Okay. But I'm asking about -- the</p> <p>17 representative's already answered no, so this is --</p> <p>18 MR. SWEETEN: Okay. All right.</p> <p>19 MR. FREEMAN: -- largely a moot point.</p> <p>20 MR. SWEETEN: Well, I'm glad we had that debate.</p> <p>21 MR. FREEMAN: Yes. Good. But we're setting</p> <p>22 ground rules for things in the future. That's important.</p> <p>23 Q. Okay. If we can move on -- we're going to move on to</p> <p>24 S.B. 14 itself. What were the purposes of S.B. 14?</p> <p>25 MR. SWEETEN: Okay. I'm going to -- I'm going to</p>	<p style="text-align: right;">96</p> <p>1 and opinions about legislation. Also reveals communications</p> <p>2 that she may have had with the parties that I've already listed.</p> <p>3 A. And my testimony on the House floor that I believe</p> <p>4 that the legislation would increase participation for all</p> <p>5 Texans.</p> <p>6 Q. Was the purpose, in part, to decrease the number of</p> <p>7 African-American voters?</p> <p>8 A. My --</p> <p>9 MR. SWEETEN: Object -- hold on. I'm going to object</p> <p>10 to the question based upon the legislative privilege. I'm going</p> <p>11 to instruct Representative Harless not to answer because it</p> <p>12 would invade her mental impressions, thoughts about pending</p> <p>13 legislation, about past legislation and would implicate</p> <p>14 communications that she's had with other legislators and other</p> <p>15 legislative staff as well as the other groups that I've</p> <p>16 previously mentioned.</p> <p>17 You can answer based upon the public record.</p> <p>18 A. My testimony on the House floor was that I felt the</p> <p>19 bill would increase participation with -- for all Texans.</p> <p>20 Q. And I guess if I can clarify my question beyond your</p> <p>21 personal belief but the purpose of the legislation as a whole as</p> <p>22 understood by any other legislators, was the purpose of the</p> <p>23 bill, in part, to decrease the number of any group of minority</p> <p>24 voters?</p> <p>25 MR. SWEETEN: I'm going to instruct</p>

<p style="text-align: right;">97</p> <p>1 Representative Harless not to answer that question. You're</p> <p>2 asking her to reveal thoughts, mental impressions about</p> <p>3 legislation. You're also asking her to reveal communications</p> <p>4 between state agencies, legislators, legislative staff, Texas</p> <p>5 Legislative Council and constituents.</p> <p>6 And so I'm going to instruct you not to answer that</p> <p>7 question based on that. You can refer to public matters such as</p> <p>8 the public floor debates as to the issue.</p> <p>9 A. My testimony on the floor was that this legislation</p> <p>10 was to protect the integrity of the election process.</p> <p>11 Q. And are you asserting legislative privilege with</p> <p>12 regard to any other purpose maintained by yourself or any other</p> <p>13 individual for this legislation?</p> <p>14 MR. SWEETEN: My instruction to you is to do so</p> <p>15 unless it -- you can refer to matters of the public -- from</p> <p>16 public debate, public hearings or committee hearings.</p> <p>17 MR. FREEMAN: Mr. Sweeten, this is her privilege</p> <p>18 to hold or waive, and so I would ask that you instruct her that</p> <p>19 she can but not that she must withhold this information.</p> <p>20 MR. SWEETEN: She's already asserted the</p> <p>21 legislative privilege. We're asserting it throughout this</p> <p>22 deposition. This is an area that implicates legislative</p> <p>23 privilege. This is a protected privilege that this court has</p> <p>24 recognized and we are going to -- and I'm instructing her as to</p> <p>25 the boundaries of that privilege.</p>	<p style="text-align: right;">99</p> <p>1 A. The purpose of the --</p> <p>2 MR. SWEETEN: Same objection.</p> <p>3 A. The purpose of --</p> <p>4 MR. SWEETEN: Same instruction.</p> <p>5 A. The purpose of the legislation, as I stated on the</p> <p>6 floor during the debate, was to protect the integrity of the</p> <p>7 election process.</p> <p>8 Q. And if you can confirm that you are refusing to answer</p> <p>9 questions about nonpublic purposes of S.B. 14 on the basis of</p> <p>10 your assertion of the state legislative privilege --</p> <p>11 A. I confirm that.</p> <p>12 Q. -- and that it is your assertion and not the assertion</p> <p>13 of the Office of the Texas Attorney General?</p> <p>14 A. It is my assertion.</p> <p>15 Q. Okay. How do you know that the purpose of S.B. 14 is</p> <p>16 limited to nondiscriminatory reasons?</p> <p>17 MR. SWEETEN: I'm going to again instruct you not to</p> <p>18 answer that question based upon the fact that it would reveal</p> <p>19 mental impressions about legislation. It also would reveal</p> <p>20 communications you've had with the various categories that I've</p> <p>21 enumerated: Legislators, legislative staff, state agencies,</p> <p>22 constituents or Texas Legislative Council. All of those are</p> <p>23 covered by the legislative privilege. This court has found that</p> <p>24 there is -- that a legislative -- that legislative privilege</p> <p>25 does exist, and I'm instructing you as to the boundaries of that</p>
<p style="text-align: right;">98</p> <p>1 MR. FREEMAN: Okay.</p> <p>2 A. I agree with my counsel that I will invoke privilege,</p> <p>3 but I'm happy to discuss from my memory what my conversations</p> <p>4 were on the floor that I recall.</p> <p>5 Q. On the floor.</p> <p>6 A. And in committee.</p> <p>7 Q. Okay.</p> <p>8 A. When I say on the floor, I mean from -- from</p> <p>9 the -- from the front and back mike, public record.</p> <p>10 Q. Was the purpose of S.B. 14, in part, to discriminate</p> <p>11 in any way against any group or groups of minority voters?</p> <p>12 MR. SWEETEN: I'm going to instruct you about the</p> <p>13 legislative privilege and that specifically legislative</p> <p>14 privilege covers mental impressions, opinions about legislation.</p> <p>15 It also allows you not to reveal communications between</p> <p>16 legislators, legislative staffers, state agencies, constituents</p> <p>17 or the Legislative Council. That privilege is recognized by</p> <p>18 this court, and you -- and I'm instructing you accordingly. You</p> <p>19 can answer based upon matters of public record.</p> <p>20 A. Can I hear the question one more time?</p> <p>21 MR. SWEETEN: Yeah, she can read it.</p> <p>22 Q. The court reporter can read it back.</p> <p>23 THE REPORTER: Question: "Was the purpose of S.B.</p> <p>24 14, in part, to discriminate in any way against any group or</p> <p>25 groups of minority voters?"</p>	<p style="text-align: right;">100</p> <p>1 privilege. So you can go ahead and answer with that -- you can</p> <p>2 answer with respect to matters of the public record.</p> <p>3 THE WITNESS: Could you repeat the question,</p> <p>4 please.</p> <p>5 THE REPORTER: Question: "Okay. How do you know that</p> <p>6 the purpose of S.B. 14 is limited to nondiscriminatory reasons?"</p> <p>7 A. I --</p> <p>8 MR. SWEETEN: Same instruction.</p> <p>9 A. I don't recall the debate on that specific question.</p> <p>10 Q. Is it your testimony that you do not recall the debate</p> <p>11 with regard to potential discriminatory purposes or</p> <p>12 discriminatory effects of S.B. 14?</p> <p>13 MR. SWEETEN: You can confine your answer to</p> <p>14 matters of the public record.</p> <p>15 A. I stated on the floor that I felt that S.B. 14 would</p> <p>16 increase participation for all Texans.</p> <p>17 Q. And what was the basis for your understanding that it</p> <p>18 would increase the participation for all Texans?</p> <p>19 MR. SWEETEN: Don't reveal your thoughts, mental</p> <p>20 impressions or opinions about legislation. You can answer to</p> <p>21 the extent that you've made a public statement with respect to</p> <p>22 that. Otherwise, the legislative privilege would cover</p> <p>23 this -- this information that he's seeking.</p> <p>24 A. From public testimony in committee that I repeated on</p> <p>25 the House floor, I believe that it would increase participation</p>

<p style="text-align: right;">101</p> <p>1 because people will be -- would be more confident that their</p> <p>2 vote is counted and --</p> <p>3 Q. We'll turn to that later. But if we can first -- if I</p> <p>4 can first ask, what is Texas' current system for determining how</p> <p>5 to verify the identity of a voter?</p> <p>6 A. The current system --</p> <p>7 Q. Uh-huh.</p> <p>8 A. -- for --</p> <p>9 Q. With -- S.B. 14 is currently not being implemented</p> <p>10 because of this litigation. So without S.B. 14 in place, what</p> <p>11 is the current system to identify -- to verify the identity of a</p> <p>12 voter when they show up to vote at the polls?</p> <p>13 A. If I remember correctly, testimony during committee</p> <p>14 was voters show up with a voter registration certificate --</p> <p>15 Q. Uh-huh.</p> <p>16 A. -- or a driver's license, and they're checked against</p> <p>17 the current data voter registration -- the voter registration</p> <p>18 database.</p> <p>19 Q. Okay. On the day that Governor Perry signed S.B. 14,</p> <p>20 which I believe was May 27th, 2011, correct?</p> <p>21 A. (Laughter.)</p> <p>22 Q. Okay. On the day that Governor Perry signed S.B. 14,</p> <p>23 did you state, quote, "We must do all we can to guarantee our</p> <p>24 elections are conducted fairly and without fraud. This bill</p> <p>25 takes a significant step to ensure the integrity of the ballot</p>	<p style="text-align: right;">103</p> <p>1 A. My statement says, "We must do all we can to guarantee</p> <p>2 our elections are conducted fairly and without fraud. This bill</p> <p>3 takes a significant step to ensure the integrity of the ballot</p> <p>4 box by providing means to deter and detect in-person voter</p> <p>5 fraud."</p> <p>6 Q. What do you mean by the term "in-person voter fraud"?</p> <p>7 A. From the testimony on the House floor, the purpose of</p> <p>8 the photo voter ID is to verify the person showing up to vote is</p> <p>9 who they say they are.</p> <p>10 Q. So what is the act that you are trying to prevent by</p> <p>11 S.B. 14?</p> <p>12 MR. SWEETEN: Okay. That -- and he's asking you</p> <p>13 now a question that would require you to reveal thoughts, mental</p> <p>14 impressions, opinions about legislation, okay, or potentially</p> <p>15 communications with constituents, legislators, staff, TLC or</p> <p>16 state agencies. So to the extent he's asking you to do that, my</p> <p>17 instruction to you is that that is a matter covered by the</p> <p>18 legislative privilege. To the extent that you can refer to</p> <p>19 public debate about the issue or public statements, you can</p> <p>20 answer.</p> <p>21 MR. FREEMAN: Let me see if I can rephrase my</p> <p>22 question to avoid the objection.</p> <p>23 Q. How would you define the term used in this press</p> <p>24 release, the act that you are detecting and deterring, which is</p> <p>25 in-person voter fraud? How would you define the term that you</p>
<p style="text-align: right;">102</p> <p>1 box by providing a means to detect and deter in-person voter</p> <p>2 fraud?"</p> <p>3 A. If you have a statement that I said that,</p> <p>4 MR. FREEMAN: If we could mark this U.S. 16,</p> <p>5 (Exhibit No. 16 marked)</p> <p>6 Q. Do you recognize this press release?</p> <p>7 MR. SWEETEN: I caution the witness to take your</p> <p>8 time to review it before answering the question.</p> <p>9 Q. Please do.</p> <p>10 A. Well, it's kind of printed over. Is this a press</p> <p>11 release from me or from Governor Perry's office?</p> <p>12 Q. If you look at the top left,</p> <p>13 A. Oh, okay.</p> <p>14 Q. And your quote begins at the bottom of Page 1.</p> <p>15 MR. SWEETEN: So just so I'm clear, this is a</p> <p>16 press release from Governor Perry's office, Dan?</p> <p>17 MR. FREEMAN: That's correct.</p> <p>18 A. It shows that that is a quote from me.</p> <p>19 Q. And what did you mean in that statement by "in-person</p> <p>20 voter fraud"?</p> <p>21 MR. SWEETEN: You can testify about the -- the</p> <p>22 statement that you made, if you indeed made that statement, but</p> <p>23 I don't want you to go back and reveal thoughts and mental</p> <p>24 impressions or opinions about legislation. You can talk about</p> <p>25 that specific -- about public statements about that issue.</p>	<p style="text-align: right;">104</p> <p>1 used?</p> <p>2 A. The debate on the floor was the act to deter and</p> <p>3 detect is by having a person that shows up to vote in person</p> <p>4 show a photo ID showing that they are who they say they are.</p> <p>5 Q. But without S.B. 14, what is the in-person voter</p> <p>6 fraud?</p> <p>7 A. Excuse me?</p> <p>8 Q. What is in-person voter fraud?</p> <p>9 MR. SWEETEN: I don't want you to reveal</p> <p>10 thoughts, mental impressions or opinions about the legislation.</p> <p>11 He can ask you about that specific statement that -- that you</p> <p>12 made, if you made that. But don't go into the process of</p> <p>13 making -- of how the legislation came to be, your thoughts as</p> <p>14 the legislation proceeded or communications that you've had with</p> <p>15 the individuals I've outlined earlier.</p> <p>16 A. I don't recall public testimony specifically about</p> <p>17 that question.</p> <p>18 Q. About the definition of in-person voter fraud?</p> <p>19 A. I don't recall it. I'm not saying it didn't exist. I</p> <p>20 don't remember it.</p> <p>21 Q. Do you personally have a working definition, an</p> <p>22 understanding of what in-person voter fraud is?</p> <p>23 A. Say that one more time?</p> <p>24 Q. Do you have -- oh, sorry. We can have the court</p> <p>25 reporter read it.</p>

<p style="text-align: right;">105</p> <p>1 THE REPORTER: Question: "Do you personally have a</p> <p>2 working definition, an understanding of what in-person voter</p> <p>3 fraud is?"</p> <p>4 MR. SWEETEN: Just same instruction. Don't</p> <p>5 reveal any mental impressions, opinions about the legislation,</p> <p>6 but you can -- if you want to give him your current</p> <p>7 understanding -- I think is what he's asking you -- of what</p> <p>8 voter -- in-person voter fraud means, I don't think that</p> <p>9 that's -- to the extent you're not doing -- you're not providing</p> <p>10 that information, you can go ahead and do so.</p> <p>11 A. There was testimony in committee --</p> <p>12 Q. Uh-huh.</p> <p>13 A. -- that people stated someone had used an ID of a</p> <p>14 person that was deceased and went and voted with that person's</p> <p>15 ID. That was the testimony of impersonation of a voter.</p> <p>16 Q. Okay. So if -- allow me to -- I'll provide a working</p> <p>17 definition so we can use that moving forward that -- can we</p> <p>18 accept that in-person voter fraud is the act of showing up at a</p> <p>19 polling place with someone else's ID in order to falsify your</p> <p>20 identity and vote for that other person? Does that work?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. What would a voter need to do under the</p> <p>23 existing law, pre-S.B. 14, to commit in-person voter fraud?</p> <p>24 A. Show up to vote with someone else's voter registration</p> <p>25 card.</p>	<p style="text-align: right;">107</p> <p>1 Q. Okay.</p> <p>2 A. I'm not sure. I can't remember. I know we</p> <p>3 increased it to a second degree and a state jail felony, but I</p> <p>4 don't remember what it was prior to.</p> <p>5 Q. Are you aware of any specific incidents of in-person</p> <p>6 voter fraud in your district, Texas House District 126, in the</p> <p>7 last 20 years?</p> <p>8 MR. SWEETEN: Hold on a second. When you're</p> <p>9 answering this question, I don't want you to reveal thoughts,</p> <p>10 mental impressions or opinions about legislation.</p> <p>11 THE WITNESS: Right.</p> <p>12 MR. SWEETEN: I also don't want you to reveal</p> <p>13 communications you've had with constituents or state agencies,</p> <p>14 other legislators or staff.</p> <p>15 A. I was going to say that's privileged conversation with</p> <p>16 constituents.</p> <p>17 Q. Okay. But in the public record, is it correct that</p> <p>18 there are no statements in the public record before the</p> <p>19 committee or before the floor concerning -- that set out</p> <p>20 incidents of in-person voter fraud in Texas House District 126?</p> <p>21 A. I cannot say that for sure. There were people that</p> <p>22 were testifying. I don't know where they lived.</p> <p>23 Q. Okay. And have you, in any public statements,</p> <p>24 articulated any incidents of in-person voter fraud that occurred</p> <p>25 in Texas House District 126 in the last 20 years?</p>
<p style="text-align: right;">106</p> <p>1 Q. How would they obtain someone else's voter</p> <p>2 registration card?</p> <p>3 A. I have no idea.</p> <p>4 Q. Would they have to steal it, for example?</p> <p>5 A. I don't know.</p> <p>6 Q. What is the punishment under current law for</p> <p>7 committing in-person voter fraud?</p> <p>8 A. Prior to --</p> <p>9 Q. Prior to S.B. 14.</p> <p>10 A. I don't know exactly. It was -- we increased it to a</p> <p>11 second degree -- I think it was a third degree. I can't</p> <p>12 remember exactly.</p> <p>13 Q. So it was a felony; is that correct?</p> <p>14 A. I -- I think it was.</p> <p>15 Q. Okay. And in-person voter fraud would change one</p> <p>16 vote; is that correct?</p> <p>17 A. Excuse me?</p> <p>18 Q. An act of in-person voter fraud would change one vote</p> <p>19 is that correct?</p> <p>20 MR. SWEETEN: Under existing statute or --</p> <p>21 MR. FREEMAN: Under the -- under the existing</p> <p>22 statute, as the term is defined.</p> <p>23 A. Yes.</p> <p>24 Q. And that would be a felony; is that correct?</p> <p>25 A. I think.</p>	<p style="text-align: right;">108</p> <p>1 A. I don't think I have made any public statements of</p> <p>2 that.</p> <p>3 Q. Are you aware of any specific incidents of in-person</p> <p>4 voter fraud in Harris County in the last 20 years?</p> <p>5 A. There was testimony that -- in committee that there</p> <p>6 were cases referred to the Secretary of State and some</p> <p>7 prosecuted in Harris County.</p> <p>8 Q. For in-person voter fraud?</p> <p>9 A. If I remember correctly.</p> <p>10 Q. Did Paul Bettencourt give that testimony?</p> <p>11 A. I don't remember him giving testimony --</p> <p>12 Q. Okay.</p> <p>13 A. -- during our committee. I'm not saying he didn't,</p> <p>14 but I don't remember him.</p> <p>15 Q. Are you aware of how many convictions the attorney</p> <p>16 general has secured for in-person voter fraud in the last 20</p> <p>17 years in the State of Texas?</p> <p>18 MR. SWEETEN: In answering that question, don't</p> <p>19 reveal thoughts, mental impressions, opinions about legislation,</p> <p>20 including Senate Bill 14, or communications with legislators,</p> <p>21 legislative staff, state agencies, Legislative Council or</p> <p>22 constituents.</p> <p>23 MR. FREEMAN: Mr. Sweeten, I believe convictions</p> <p>24 are a matter of public record.</p> <p>25 MR. SWEETEN: You can -- you can confine your</p>



<p style="text-align: right;">109</p> <p>1 testimony to matters of public record.</p> <p>2 A. I remember in committee there were testimony of</p> <p>3 numbers, but I can't tell you what they were.</p> <p>4 Q. Was it less than five?</p> <p>5 A. I could not tell you for sure.</p> <p>6 Q. Okay. In the last 20 years, are you aware of any</p> <p>7 convictions of noncitizens for in-person voter fraud?</p> <p>8 MR. SWEETEN: Same instruction.</p> <p>9 A. I don't recall that in testimony.</p> <p>10 Q. Okay. Are you aware of whether Attorney General</p> <p>11 Abbott has dedicated substantial resources over the last decade</p> <p>12 to investigating allegations of voter fraud, in-person voter</p> <p>13 fraud?</p> <p>14 MR. SWEETEN: In answering that question, don't</p> <p>15 reveal thoughts, mental impressions, opinions about legislation.</p> <p>16 Don't reveal communications with legislators, legislative staff,</p> <p>17 state agencies, Texas Legislative Council, constituents or your</p> <p>18 lawyers.</p> <p>19 THE WITNESS: Could you please repeat the</p> <p>20 question.</p> <p>21 THE REPORTER: Question: "Okay. Are you aware of</p> <p>22 whether Attorney General Abbott has dedicated substantial</p> <p>23 resources over the last decade to investigating allegations of</p> <p>24 voter fraud, in-person voter fraud? "</p> <p>25 A. I don't --</p>	<p style="text-align: right;">111</p> <p>1 A. Not that I recall in the legislative sense.</p> <p>2 Q. Are you aware of any incidents of minors or</p> <p>3 individuals who are underneath the age of 21 creating or using</p> <p>4 false IDs in order to obtain alcohol?</p> <p>5 MR. SWEETEN: Same instruction.</p> <p>6 A. There was testimony in committee that that is</p> <p>7 possible.</p> <p>8 Q. How many convictions have been obtained in the last 20</p> <p>9 years concerning the use of false IDs either to -- either to</p> <p>10 obtain alcohol or for any other purpose?</p> <p>11 MR. SWEETEN: Same instruction.</p> <p>12 A. I have no clue.</p> <p>13 Q. Do you know how many investigated incidents there have</p> <p>14 been?</p> <p>15 A. On alcohol?</p> <p>16 Q. Using fake IDs to obtain alcohol, fake photo IDs to</p> <p>17 obtain alcohol or for any other purpose.</p> <p>18 MR. SWEETEN: Same instruction.</p> <p>19 A. There may have been testimony. I don't recall it.</p> <p>20 Q. Would it be fair to say that there are more</p> <p>21 convictions for using fake IDs, photo IDs, to obtain alcohol in</p> <p>22 the State of Texas than there are for in-person voter fraud?</p> <p>23 MR. SWEETEN: Objection, calls for speculation.</p> <p>24 In addition, I object and instruct her, as I have, regarding the</p> <p>25 specific privilege.</p>
<p style="text-align: right;">110</p> <p>1 MR. SWEETEN: Same instruction.</p> <p>2 A. I don't recall testimony of that.</p> <p>3 Q. Okay. What is the drinking age in Texas?</p> <p>4 A. 21.</p> <p>5 MR. SWEETEN: You can answer.</p> <p>6 MR. FREEMAN: Thanks.</p> <p>7 THE WITNESS: I'm getting better about waiting,</p> <p>8 though. My arm's sore. I'm teasing.</p> <p>9 Q. Have individuals ever created counterfeit photographic</p> <p>10 identification cards in Texas?</p> <p>11 A. Repeat that, please.</p> <p>12 Q. I'm happy to. Have individuals ever created</p> <p>13 counterfeit photographic identification cards in Texas?</p> <p>14 A. I'm not aware of any public testimony of that.</p> <p>15 Q. Are you aware, in your personal experience outside the</p> <p>16 legislature, in terms of any source of information you may have</p> <p>17 of whether individuals in Texas have ever created counterfeit</p> <p>18 photographic identification cards?</p> <p>19 MR. SWEETEN: Same instruction that I've given.</p> <p>20 A. I agree. That's privileged conversations with</p> <p>21 constituents and staff.</p> <p>22 Q. And you have no information outside the legislative</p> <p>23 process concerning the production of counterfeit photographic</p> <p>24 identification cards in Texas?</p> <p>25 MR. SWEETEN: Same instruction.</p>	<p style="text-align: right;">112</p> <p>1 But you can go ahead and answer with that instruction.</p> <p>2 A. I have no way of knowing that. I don't recall any</p> <p>3 testimony on that.</p> <p>4 Q. What are the security features of a Texas driver's</p> <p>5 license?</p> <p>6 A. They have a scan -- a scan bar on the back. I think</p> <p>7 they're made with holographic material. I know there's a number</p> <p>8 of them, but I don't know them all off the top of my head.</p> <p>9 Q. Do they have anything that appears if you shine a</p> <p>10 black light on them?</p> <p>11 MR. SWEETEN: Same -- I'm going to make the same</p> <p>12 objection just to the extent that this could reveal</p> <p>13 communications in the legislative process between state</p> <p>14 agencies. Don't reveal that. If it's a matter of public</p> <p>15 record, then you can -- and not part of the legislative process,</p> <p>16 you can answer.</p> <p>17 A. Well, outside of the legislature, when I travel on a</p> <p>18 plane, I have noticed them shining something on my driver's</p> <p>19 license. I don't know what that is and what purpose that is.</p> <p>20 Q. Does S.B. 14 provide funding for polling places to</p> <p>21 have those similar lights, like they use when you're traveling</p> <p>22 on a plane, to test the validity of Texas driver's licenses?</p> <p>23 MR. SWEETEN: You're asking about Senate Bill 14</p> <p>24 as passed?</p> <p>25 MR. FREEMAN: Yes.</p>

<p style="text-align: right;">113</p> <p>1 MR. SWEETEN: Does it contain that?</p> <p>2 MR. FREEMAN: Yes.</p> <p>3 A. There was a fiscal note that was several pages with a</p> <p>4 lot of breakdown from departments on what the fiscal expense</p> <p>5 they expected the legislation to add up to, and I'm not sure</p> <p>6 exactly what all the specifics were that went to drafting that</p> <p>7 fiscal note.</p> <p>8 Q. Are you aware of whether S.B. 14 provides financing</p> <p>9 for handheld computers to scan the back of the driver's license?</p> <p>10 A. I'm -- I don't know.</p> <p>11 Q. Do you recall any debate in the House concerning the</p> <p>12 fiscal note attached to S.B. 14?</p> <p>13 A. I do.</p> <p>14 Q. And do you recall whether all of the funding for S.B.</p> <p>15 14 would be provided using federal funds available under the</p> <p>16 Help America Vote Act?</p> <p>17 A. If I recall the testimony correctly, there was</p> <p>18 discussion that part of the funding could be applied for --</p> <p>19 Q. Uh-huh.</p> <p>20 A. -- through the Help America Vote Act.</p> <p>21 Q. And was -- were there discussions as to whether that</p> <p>22 funding would be available -- would be used only for voter</p> <p>23 education?</p> <p>24 MR. SWEETEN: You're talking about public</p> <p>25 hearing --</p>	<p style="text-align: right;">115</p> <p>1 debate of photo voter ID. I don't remember.</p> <p>2 Q. I'm just asking as a general -- as a general</p> <p>3 principle, your opinion.</p> <p>4 MR. SWEETEN: Same instruction.</p> <p>5 Q. Okay. Are you not able to offer an opinion because of</p> <p>6 the advice of counsel?</p> <p>7 A. Yes.</p> <p>8 Q. Okay.</p> <p>9 A. Because it relies on my thought process.</p> <p>10 Q. Did you ever state in the House that you were not</p> <p>11 advised as to how often in-person voter fraud occurs?</p> <p>12 A. I could have possibly stated that. It was a 12-hour</p> <p>13 debate.</p> <p>14 Q. I thought you said 11.</p> <p>15 A. 11, 12. The second time.</p> <p>16 Q. Okay.</p> <p>17 A. The first time it was four hours.</p> <p>18 MR. FREEMAN: If we could mark this as, I</p> <p>19 believe, U.S. Exhibit 17.</p> <p>20 (Exhibit No. 17 marked)</p> <p>21 Q. My apologies for making you re-live all those hours.</p> <p>22 A. It's part of it.</p> <p>23 Q. If you could turn to Page 910. And if you could just</p> <p>24 read beginning with, "And how does -- describe how voter</p> <p>25 impersonation works," Representative Anchia's statement.</p>
<p style="text-align: right;">114</p> <p>1 MR. FREEMAN: Public hearing testimony, yes.</p> <p>2 MR. SWEETEN: You can answer.</p> <p>3 A. I'm not sure what the -- I don't remember what the</p> <p>4 testimony was of what specifically that money would be used for,</p> <p>5 but that we could apply for half of funding to help offset the</p> <p>6 cost of the fiscal note part of process.</p> <p>7 Q. We're going to probably just jump back to that later</p> <p>8 when I'll find something to refresh your recollection on that</p> <p>9 during a break --</p> <p>10 A. Okay.</p> <p>11 Q. -- rather than stop now.</p> <p>12 A. Okay.</p> <p>13 Q. When there are a greater number of one crime being</p> <p>14 committed than another, in your opinion, what crime should be</p> <p>15 given the greater priority in terms of the legislature's</p> <p>16 attention?</p> <p>17 MR. SWEETEN: Okay. To the extent that this</p> <p>18 question is asking you to reveal thoughts, mental impressions,</p> <p>19 opinions about legislation, do not reveal those. Do not also --</p> <p>20 also, do not reveal any communications you've had with state</p> <p>21 agencies, legislators, staff members, constituents or the Texas</p> <p>22 Legislative Council. You can refer to matters of the public</p> <p>23 record or matters that aren't implicated by that legislative</p> <p>24 privilege.</p> <p>25 A. I don't know that that was ever discussed in the</p>	<p style="text-align: right;">116</p> <p>1 MR. SWEETEN: Dan, where are you in the --</p> <p>2 THE WITNESS: Right here (indicating).</p> <p>3 MR. FREEMAN: 910.</p> <p>4 MR. SWEETEN: Thank you.</p> <p>5 A. And your question was?</p> <p>6 Q. My question was: Did you state on the House floor</p> <p>7 that you were not advised how often in-person voter fraud or</p> <p>8 voter impersonation occurs?</p> <p>9 A. That's what the transcript said, so, yes.</p> <p>10 Q. Okay. And is it correct that you stated on the House</p> <p>11 floor that you'd heard testimony in committee, quote, suggesting</p> <p>12 that in-person voter fraud occurred? It's not in that</p> <p>13 transcript; it was from a different day. But do you recall</p> <p>14 that?</p> <p>15 A. I don't recall that.</p> <p>16 MR. FREEMAN: If we could -- I apologize. This</p> <p>17 is much larger. But if we could mark this as U.S. 18. Sorry.</p> <p>18 (Exhibit No. 18 marked)</p> <p>19 MR. FREEMAN: I don't have copies for everyone.</p> <p>20 This is pretty big.</p> <p>21 Q. And this is -- if you could look to Page 96, right in</p> <p>22 the middle of page, starting with Representative Veasey's</p> <p>23 question, beginning, "Ms. Harless, why on earth." Could you</p> <p>24 read for the record beginning with Representative Veasey's</p> <p>25 question?</p>

<p style="text-align: right;">117</p> <p>1 A. What line is that?</p> <p>2 Q. It is Line 8.</p> <p>3 A. No? Or 96? Page 6?</p> <p>4 Q. On Page 96.</p> <p>5 A. Okay.</p> <p>6 Q. Beginning --</p> <p>7 A. Line 8.</p> <p>8 Q. -- Line 8, Mr. Veasey.</p> <p>9 A. "Ms. Harless, why on earth would anyone go into a</p> <p>10 polling place and lie and say that they are not who they are and</p> <p>11 sign a form that could put them in jail with a second degree</p> <p>12 felony to cast one ballot? Help me understand the process here.</p> <p>13 Help me understand why that would be."</p> <p>14 "We heard testimony in committee of people suggesting</p> <p>15 that that occurred."</p> <p>16 Q. Okay. Are there any other incidents in which you have</p> <p>17 presented legislation based on the suggestion of a problem</p> <p>18 rather than evidence of a problem?</p> <p>19 MR. SWEETEN: I'm going to instruct you to not</p> <p>20 reveal thoughts, mental impressions, opinions about legislation.</p> <p>21 Do not reveal communications you've had with legislators,</p> <p>22 legislative staff, state agencies, Texas Legislative Council or</p> <p>23 constituents. You can reveal matters of public record,</p> <p>24 including committee meetings, House floor proceeding or debates.</p> <p>25 You can answer the question.</p>	<p style="text-align: right;">119</p> <p>1 A. -- I'm answering the same thing.</p> <p>2 Q. Convictions for in-person voter fraud.</p> <p>3 A. I don't know specifically what the convictions were,</p> <p>4 but it was -- I can't say specifically it was in-person voter</p> <p>5 fraud. I know they talked about convictions.</p> <p>6 Q. Okay. And just so you know, could you look at the</p> <p>7 date on that transcript?</p> <p>8 A. March 23rd, 2011.</p> <p>9 Q. Was that after the committee hearings had occurred?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. So that was after you'd received all the</p> <p>12 evidence that you had received in public proceedings; is that</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. And on that date, on March 23rd, you stated that there</p> <p>16 was the suggestion that in-person voter fraud had occurred; is</p> <p>17 that correct?</p> <p>18 A. That's what it says here. I can't recall the exact</p> <p>19 testimony.</p> <p>20 Q. And I'll let you know that that's a transcript that</p> <p>21 was provided by your counsel to the United States.</p> <p>22 A. Right. But if you notice, in these transcripts,</p> <p>23 there's a lot of times that it's difficult to hear or understand</p> <p>24 because of the microphone issues.</p> <p>25 Q. But you were at the front mike; isn't that correct?</p>
<p style="text-align: right;">118</p> <p>1 A. From the transcript --</p> <p>2 Q. Uh-huh.</p> <p>3 A. -- this is at the end of the debate.</p> <p>4 Q. It's the end of Volume I of III.</p> <p>5 A. Okay. So I don't know at what part of the process</p> <p>6 this is.</p> <p>7 Q. Uh-huh.</p> <p>8 A. But we heard testimony in committee of people saying</p> <p>9 that voter impersonation happens.</p> <p>10 Q. Did they provide evidence in the form of convictions?</p> <p>11 MR. SWEETEN: You're saying in the committee?</p> <p>12 MR. FREEMAN: In the committee.</p> <p>13 MR. SWEETEN: Yeah. Go ahead and answer.</p> <p>14 A. I know that there was information in the committee</p> <p>15 presented from the AG's office, the Secretary of State of the</p> <p>16 number of complaints referred --</p> <p>17 Q. Uh-huh.</p> <p>18 A. -- and the number of convictions, but I cannot recall</p> <p>19 the specific number of convictions from the testimony in the</p> <p>20 committee.</p> <p>21 Q. Do you recall if they were numerous?</p> <p>22 A. I know they were more than one.</p> <p>23 Q. Are you certain that they were more than one?</p> <p>24 A. I am -- and make sure we're asking the same thing --</p> <p>25 Q. Uh-huh.</p>	<p style="text-align: right;">120</p> <p>1 A. I was.</p> <p>2 Q. And the front mike, it's easier to hear;</p> <p>3 isn't -- isn't that correct?</p> <p>4 A. You read the transcript. How many times did they say,</p> <p>5 "Could you repeat yourself"?</p> <p>6 Q. But no one asked you to repeat yourself there, did</p> <p>7 they?</p> <p>8 A. No, they didn't.</p> <p>9 Q. Representative Harless, how many incidents of mail-in</p> <p>10 ballot fraud have occurred in the State of Texas in the last 20</p> <p>11 years?</p> <p>12 MR. SWEETEN: Okay. In answering this question,</p> <p>13 I don't want you to reveal thoughts, mental impressions or</p> <p>14 opinions about the legislation. Also, do not reveal</p> <p>15 communications with legislators, legislative staff, state</p> <p>16 agencies, Texas Legislative Council or constituents, as all of</p> <p>17 those matters are legislatively privileged. To the extent you</p> <p>18 can answer that question based upon the public record, you --</p> <p>19 will allow you to do so.</p> <p>20 A. I don't recall testimony on mail-in ballot in</p> <p>21 committee.</p> <p>22 Q. Have you heard outside of the context of committee but</p> <p>23 outside of the context in which your counsel has instructed you</p> <p>24 not to answer anything about mail-in ballot fraud?</p> <p>25 MR. SWEETEN: Same instruction.</p>

<p style="text-align: right;">121</p> <p>1 A. That would be privileged communication between</p> <p>2 constituents.</p> <p>3 Q. Okay. And so are you aware of whether mail-in ballot</p> <p>4 fraud has been prosecuted more than in-person ballot fraud?</p> <p>5 MR. SWEETEN: Same instruction.</p> <p>6 A. It was not part of the committee testimony that I</p> <p>7 recall.</p> <p>8 Q. Okay. When you were asked in the House about mail-in</p> <p>9 ballot fraud, did you state, "This bill is only interested in</p> <p>10 one type of potential fraud, in-person voter fraud"?</p> <p>11 A. I don't recall the exact words, but --</p> <p>12 Q. Let me see if we can refresh your recollection. It</p> <p>13 might be easier --</p> <p>14 A. Yeah.</p> <p>15 Q. -- if you could take a look at Exhibit 17 on Page 914.</p> <p>16 It's the third line on Page 914.</p> <p>17 A. "This bill is only interested in one type of potential</p> <p>18 fraud, in-person voting fraud."</p> <p>19 Q. Why did you -- why did you limit the bill in this way?</p> <p>20 MR. SWEETEN: Don't answer to the extent that</p> <p>21 your answer would reveal thoughts, mental impressions, opinions</p> <p>22 about legislation. Don't reveal communications to the -- to the</p> <p>23 legislators, legislative staff, state agencies, Texas Leg</p> <p>24 Council or constituents.</p> <p>25 A. My testimony on the committee was this bill was</p>	<p style="text-align: right;">123</p> <p>1 A. Yes.</p> <p>2 MR. SWEETEN: Same instruction.</p> <p>3 MR. FREEMAN: Okay. I just want to get that on</p> <p>4 the record without -- okay.</p> <p>5 Q. Now, are you familiar with your campaign web site?</p> <p>6 A. Vaguely.</p> <p>7 Q. And are you aware of whether you -- whether you list</p> <p>8 important issues facing Texans?</p> <p>9 A. I think I have an issue drop box.</p> <p>10 Q. And this has already been entered as U.S. Exhibit 7.</p> <p>11 And do you see where you list immigration reform?</p> <p>12 A. I do.</p> <p>13 Q. And do you see under immigration reform where you list</p> <p>14 require Texans -- a Texas photo ID to vote?</p> <p>15 A. I see that.</p> <p>16 Q. Why is requiring Texas photo ID to vote listed under</p> <p>17 immigration reform?</p> <p>18 MR. SWEETEN: I'm going to instruct you to not</p> <p>19 answer based upon -- and reveal thoughts, mental impressions,</p> <p>20 opinions about legislation. Don't reveal communications that</p> <p>21 we've already discussed. Because this is a -- on a web site,</p> <p>22 you can answer this specific question, but you cannot -- I</p> <p>23 instruct you not to reveal the information about the bill or</p> <p>24 legislation, why it's passed.</p> <p>25 A. My consultant does my web site, and I don't know why</p>
<p style="text-align: right;">122</p> <p>1 specifically about in-person, protecting the integrity of the</p> <p>2 ballot box by verifying you are who you say you are when you</p> <p>3 show up to vote in person.</p> <p>4 Q. But it wasn't about protecting the integrity of the</p> <p>5 ballot box from -- from mail-in ballot fraud?</p> <p>6 A. My testimony --</p> <p>7 MR. SWEETEN: Same instruction.</p> <p>8 A. -- was only about in-person. This bill was about</p> <p>9 in-person voting.</p> <p>10 Q. And why did you limit it that way?</p> <p>11 MR. SWEETEN: Same instruction.</p> <p>12 A. That is privileged.</p> <p>13 Q. Okay. And why would you focus on a bill that</p> <p>14 addressed a problem such as in-person ballot fraud that occurs</p> <p>15 rarely, far more rarely than any issues concerning mail-in</p> <p>16 ballot fraud?</p> <p>17 MR. SWEETEN: I'm going to object based upon the</p> <p>18 legislative privilege and instruct you not to reveal thoughts,</p> <p>19 mental impressions, opinions about legislation or reveal</p> <p>20 communications between you and legislators, legislative staff,</p> <p>21 state agencies, Texas Legislative Council or constituents.</p> <p>22 A. This bill was about in-person voting and only</p> <p>23 in-person voting.</p> <p>24 Q. And any other reason is protected by privilege; is</p> <p>25 that your -- is that your testimony?</p>	<p style="text-align: right;">124</p> <p>1 he put -- put it under immigration reform.</p> <p>2 Q. Who is your consultant?</p> <p>3 A. Spencer Newman.</p> <p>4 Q. And do you see any connection between requiring Texans</p> <p>5 to show a photo ID to vote and immigration reform?</p> <p>6 MR. SWEETEN: Same instruction. Objection.</p> <p>7 A. If I would have designed this, I would have probably</p> <p>8 put it under other.</p> <p>9 Q. So you don't see a connection; is that correct?</p> <p>10 A. It's on my --</p> <p>11 MR. SWEETEN: Same instruction.</p> <p>12 A. -- web site under immigration reform.</p> <p>13 Q. Are you aware of any documented cases of noncitizens</p> <p>14 committing in-person ballot fraud in Texas?</p> <p>15 MR. SWEETEN: Don't reveal thoughts, mental</p> <p>16 impressions or opinions about legislation. Don't reveal</p> <p>17 conversations that you've had with legislators, legislative</p> <p>18 staff, state agencies, Texas Legislative Council or constituents</p> <p>19 as those matters are legislatively privileged. If you can</p> <p>20 answer the question without doing so, you are free to do so.</p> <p>21 A. I don't recall that in testimony in committee.</p> <p>22 Q. Okay. And any further information would be covered by</p> <p>23 privilege?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Are you aware of any documented cases of</p>

<p style="text-align: right;">125</p> <p>1 undocumented immigrants --</p> <p>2 MR. SWEETEN: Same --</p> <p>3 Q. -- voting in Texas elections?</p> <p>4 A. I don't --</p> <p>5 MR. SWEETEN: Same objection. Same instruction.</p> <p>6 A. I don't recall any testimony of that in committee.</p> <p>7 Q. Is it necessary to prove citizenship to obtain a Texas</p> <p>8 license to carry a concealed handgun?</p> <p>9 MR. SWEETEN: Same instruction. Well, answer if</p> <p>10 you know.</p> <p>11 A. I don't know that I know that.</p> <p>12 Q. Okay.</p> <p>13 A. I applied for my handgun, but I don't remember the</p> <p>14 questions.</p> <p>15 Q. And we already discussed a driver's license?</p> <p>16 A. Right.</p> <p>17 Q. Are you aware of whether it's necessary to prove</p> <p>18 citizenship to obtain a Texas identification card, a</p> <p>19 non-driver's identification?</p> <p>20 MR. SWEETEN: Same instruction. Same objection.</p> <p>21 You can answer.</p> <p>22 A. I don't know for sure. It seems like there was</p> <p>23 testimony in committee on other bills about that, but I don't</p> <p>24 know specifically what the requirements are.</p> <p>25 Q. Okay. Are you aware of whether it's necessary to</p>	<p style="text-align: right;">127</p> <p>1 statements about noncitizens voting?</p> <p>2 MR. SWEETEN: I'm going to -- I'm going to object</p> <p>3 based upon the legislative privilege. Don't reveal thoughts,</p> <p>4 mental impressions or opinions about legislation nor</p> <p>5 communications between legislators, state agencies, including</p> <p>6 the lieutenant governor's office or governor's office,</p> <p>7 legislative staff, Texas Legislative Council or constituents.</p> <p>8 A. I don't recall any nonpublic statements.</p> <p>9 Q. And is that based on the assertion of privilege?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Are you aware of the claims that S.B. 14</p> <p>12 attempted to exploit fears of illegal immigrants voting?</p> <p>13 MR. SWEETEN: Same instruction.</p> <p>14 A. I don't recall that testimony on the floor or in</p> <p>15 committee.</p> <p>16 Q. And if you could be clear that any other statements,</p> <p>17 you will not be providing them on the basis of privilege?</p> <p>18 A. If it's conversations about the legislation with</p> <p>19 constituents --</p> <p>20 Q. Okay.</p> <p>21 A. -- staff, Leg Council, then you are correct.</p> <p>22 Q. You learned Mr. Sweeten's list.</p> <p>23 A. I'm trying. It's -- it's tough for a blonde female,</p> <p>24 but I'm working on it.</p> <p>25 Q. With all due respect, the blonde females who are</p>
<p style="text-align: right;">126</p> <p>1 prove citizenship in order to obtain a U.S. military</p> <p>2 identification card?</p> <p>3 A. I'm not aware.</p> <p>4 Q. Are you aware of whether it's necessary to prove</p> <p>5 citizenship to obtain a state or federal ID card related to</p> <p>6 employment?</p> <p>7 MR. SWEETEN: Same instruction regarding</p> <p>8 legislative privilege.</p> <p>9 A. I'm not aware.</p> <p>10 Q. Okay. What ethnic group makes up the majority of</p> <p>11 immigrants in Texas?</p> <p>12 MR. SWEETEN: Same instruction. Same objection.</p> <p>13 You can answer.</p> <p>14 A. I couldn't tell you for sure.</p> <p>15 Q. Is it possible that it is Hispanics?</p> <p>16 A. It's possible.</p> <p>17 Q. But you're not certain?</p> <p>18 A. I'm not exactly certain.</p> <p>19 Q. Okay. Are you aware of any other legislators or</p> <p>20 staff, including the lieutenant governor, making any public</p> <p>21 statements about illegal aliens voting?</p> <p>22 A. I'm not aware of their statements, if they've made</p> <p>23 them or not.</p> <p>24 Q. Are you aware of any other legislators or staff,</p> <p>25 including the lieutenant governor, making any nonpublic</p>	<p style="text-align: right;">128</p> <p>1 working with me on this team --</p> <p>2 A. This blonde female.</p> <p>3 Q. -- they are outstanding lawyers and I'm sure that you</p> <p>4 are an outstanding legislator.</p> <p>5 A. I'm not an attorney.</p> <p>6 Q. If I can just ask that when you are withholding</p> <p>7 testimony on the basis of privilege that you do state it for the</p> <p>8 record. It's just easier moving forward for all parties.</p> <p>9 A. Yes, sir.</p> <p>10 Q. Okay. Now, you've described in public the purpose of</p> <p>11 S.B. 14 as restoring public confidence in the election system;</p> <p>12 is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. And have you used the word "restoring"?</p> <p>15 MR. SWEETEN: You're asking her in public</p> <p>16 statements?</p> <p>17 MR. FREEMAN: In public statements, yes.</p> <p>18 A. I would say yes.</p> <p>19 Q. Okay. Can you tell me why you used the word "restore</p> <p>20 in public statements?</p> <p>21 A. I can't tell you why.</p> <p>22 Q. Was there a time previously when Texans had -- had</p> <p>23 confidence in the election system and lost that confidence?</p> <p>24 A. I think that would be privileged based on</p> <p>25 conversations with constituents.</p>

<p style="text-align: right;">129</p> <p>1 Q. Has Texas ever had a photo ID requirement in the past?</p> <p>2 A. Not that I'm aware of, not in the public testimony.</p> <p>3 Q. Has Texas ever had other restrictions on voting that</p> <p>4 would coincide with a time when Texans had confidence in their</p> <p>5 elections?</p> <p>6 A. I'm not exactly sure what you're asking.</p> <p>7 Q. Well, you testified that there was a time in the past</p> <p>8 when Texans had confidence in their elections, and in the past</p> <p>9 they did not have a photo ID requirement. Was there some other</p> <p>10 limitation on voting that coincided, was at the same time, as</p> <p>11 that public confidence in the voting?</p> <p>12 MR. SWEETEN: Same instruction on legislative</p> <p>13 privilege. Go ahead and answer.</p> <p>14 A. I don't know that I can answer that. I don't know</p> <p>15 that I understand what you're asking.</p> <p>16 Q. Did Texans have more confidence in their elections</p> <p>17 when elections were limited on the basis of race?</p> <p>18 MR. SWEETEN: Same instruction.</p> <p>19 A. Testimony on the floor was that in the last election</p> <p>20 cycle we had a House member that won her recount by three votes</p> <p>21 and an election with a representative from Houston that won his</p> <p>22 election by eight votes and that it was important that every</p> <p>23 person that goes to vote in person knows that their vote is</p> <p>24 going to count.</p> <p>25 MR. FREEMAN: I'll object to that testimony as</p>	<p style="text-align: right;">131</p> <p>1 Q. We'll get to those later. If I can just ask one last</p> <p>2 time as an attempt --</p> <p>3 A. I think that --</p> <p>4 Q. Based on the use of the word "restore" -- and I'm not</p> <p>5 trying to be argumentative. I just want to know why you said</p> <p>6 restore, which would imply that at some time in the past there</p> <p>7 was voter confidence and then that voter confidence was lost.</p> <p>8 And so I want to know what your opinion is not with regard to</p> <p>9 your constituents, but what your opinion is with regard to when</p> <p>10 there was confidence and why that confidence was lost such that</p> <p>11 you would now need a new photo ID requirement to restore that</p> <p>12 confidence.</p> <p>13 MR. SWEETEN: Objection, asked and answered.</p> <p>14 Objection, compound. Also, she's already testified she doesn't</p> <p>15 know why she used the word "restore." I think she -- that --</p> <p>16 that's already been -- but go ahead. You can answer, I guess,</p> <p>17 again.</p> <p>18 A. I thought I had answered, and I absolutely agree with</p> <p>19 my counsel that I don't know why I used that, but I think I've</p> <p>20 answered the question that you've asked.</p> <p>21 MR. FREEMAN: Mr. Sweeten has offered excellent</p> <p>22 testimony today.</p> <p>23 Q. Have you ever had an individual registered voter tell</p> <p>24 you that they did not vote because they were concerned about</p> <p>25 voter fraud cancelling out their vote?</p>
<p style="text-align: right;">130</p> <p>1 nonresponsive.</p> <p>2 Q. And just so that it's clear, what is your personal</p> <p>3 view on the issue of whether there was a time in the past that</p> <p>4 Texans had more confidence in their elections?</p> <p>5 MR. SWEETEN: I'm going to object to the extent</p> <p>6 the question calls for her to provide matters that are</p> <p>7 legislatively privileged. Don't reveal thoughts, mental</p> <p>8 impressions, opinions about legislation. Don't reveal</p> <p>9 communications with legislators, legislative staff, state</p> <p>10 agencies, Texas Legislative Council or constituents.</p> <p>11 A. My testimony on the floor was that asking a person to</p> <p>12 verify who they say they are increases the confidence that every</p> <p>13 vote counts.</p> <p>14 Q. And my question was with regard to the past time when</p> <p>15 Texans had confidence without a voter -- photo voter ID</p> <p>16 requirement, what your personal opinion as to why they had</p> <p>17 confidence but no longer have it.</p> <p>18 MR. SWEETEN: Same objection. Same instruction.</p> <p>19 A. I hate to say the same thing over and over, but the</p> <p>20 purpose of the bill was to increase participation by allowing</p> <p>21 people to know that their vote counts when they show up to vote</p> <p>22 in person by verifying you are who you say you are. That</p> <p>23 increases public confidence, in my opinion, from the testimony</p> <p>24 on the floor by the results of the Georgia increase in</p> <p>25 participation.</p>	<p style="text-align: right;">132</p> <p>1 A. Privilege.</p> <p>2 MR. SWEETEN: Okay. Don't reveal -- I'm going to</p> <p>3 object based on legislative privilege. Don't reveal matters</p> <p>4 that we've already discussed.</p> <p>5 THE WITNESS: I need to go to the bathroom.</p> <p>6 MR. SWEETEN: Okay. We can take a break.</p> <p>7 MR. FREEMAN: Okay. Let's take a break.</p> <p>8 Actually, you know what, it is -- it's a quarter to 1:00. Let's</p> <p>9 take lunch.</p> <p>10 MR. SWEETEN: Okay.</p> <p>11 (Recess from 12:45 p.m. to 2:12 p.m.)</p> <p>12 Q. We are back from the lunch break and a discussion of</p> <p>13 legislative privilege. And before the break, we had been</p> <p>14 discussing public confidence.</p> <p>15 And I'm not sure if I asked this question before the</p> <p>16 break, but I wanted to know: Have you ever had an individual</p> <p>17 registered voter tell you that they did not vote because they</p> <p>18 were concerned about voter fraud cancelling out their vote?</p> <p>19 MR. SWEETEN: Don't reveal thoughts, mental</p> <p>20 impressions, opinions about legislation, including Senate Bill</p> <p>21 14. Don't reveal discussions you've had with constituents.</p> <p>22 A. I believe by answering that I will -- I will reveal</p> <p>23 personal conversations with constituents.</p> <p>24 Q. Okay. Have you ever had an individual registered</p> <p>25 voter who is a member of a racial minority group or ethnic</p>



<p style="text-align: right;">133</p> <p>1 minority group or language minority group tell you that you did</p> <p>2 not -- that they did not vote because they were concerned about</p> <p>3 voter fraud cancelling out their vote?</p> <p>4 MR. SWEETEN: Same instruction.</p> <p>5 A. My same answer, that will reveal personal</p> <p>6 conversations.</p> <p>7 Q. Okay. Do you remember writing an op-ed in the Houston</p> <p>8 Chronicle back in November?</p> <p>9 A. I do.</p> <p>10 Q. And this has already been marked as an exhibit. Okay.</p> <p>11 It has not.</p> <p>12 MR. FREEMAN: If we could have this marked as U.S.</p> <p>13 Exhibit 19.</p> <p>14 (Exhibit No. 19 marked)</p> <p>15 Q. Do you recognize that document?</p> <p>16 A. I do.</p> <p>17 Q. Is that your November 11th op-ed -- excuse</p> <p>18 me -- November 14th?</p> <p>19 A. It's the op-ed I wrote. I don't know what date -- I</p> <p>20 don't remember the date that the Chronicle published it, but,</p> <p>21 yes.</p> <p>22 Q. Is that the Houston Chronicle?</p> <p>23 A. Yes. Sorry.</p> <p>24 Q. And have you ever published any other op-eds?</p> <p>25 A. I don't think so. I was surprised about this one too.</p>	<p style="text-align: right;">135</p> <p>1 Are you aware of what the voter ID requirements are in</p> <p>2 Georgia?</p> <p>3 A. Vaguely. I mean, I don't know if I can quote exactly</p> <p>4 from memory, but from carrying the legislation and testimony, I</p> <p>5 remember some of it.</p> <p>6 Q. Could you tell me what you remember?</p> <p>7 A. I know they allow tribal IDs, tribal cards. I know --</p> <p>8 I think that they don't have a provision for absentee ballot. I</p> <p>9 think they don't have a -- or provisional ballot. I don't think</p> <p>10 they have a provision that allows exemption for indigent,</p> <p>11 religious. I think they have state and federal</p> <p>12 government-issued ID. And I can't remember all the specifics,</p> <p>13 but those are the things off the top of my head.</p> <p>14 Q. Okay. So the things that you were saying they do have</p> <p>15 or they don't have, those are differences from S.B. 14, correct?</p> <p>16 A. Right.</p> <p>17 Q. And so the Georgia one is different from S.B. 14 --</p> <p>18 A. Right.</p> <p>19 Q. -- in several ways?</p> <p>20 Do you know what the prior ID requirements were in</p> <p>21 Georgia before they passed their new photo ID requirement?</p> <p>22 A. I don't remember.</p> <p>23 Q. So do -- same question with Indiana: Do you know what</p> <p>24 the requirements are in Indiana?</p> <p>25 A. Indiana, I know that they had -- I don't know. I</p>
<p style="text-align: right;">134</p> <p>1 Q. Okay. And in that op-ed, did you state that,</p> <p>2 "Statistics from Indiana and Georgia show that ID requirements</p> <p>3 work well and do not suppress turnout, as opponents claim"?</p> <p>4 A. "Statistics from Indiana and Georgia show that ID</p> <p>5 requirements work well and do not suppress turnout, as opponents</p> <p>6 often claim." That's what it said.</p> <p>7 Q. Did you then claim that voter ID would, in fact,</p> <p>8 increase turnout?</p> <p>9 A. It says, "All along our goal with photo ID has been to</p> <p>10 restore integrity in the election process, which will increase</p> <p>11 turnout."</p> <p>12 Q. And did you state during debate that there had been</p> <p>13 document evidence that in two states that have passed this more</p> <p>14 restrictive photo ID that voter turnout increases? Do you</p> <p>15 recall making that statement in debate, not in the op-ed?</p> <p>16 A. In debate, I said that the testimony during committee</p> <p>17 was that they had increased participation in elections from what</p> <p>18 I remember.</p> <p>19 Q. If you could take a look at Exhibit 17, which was the</p> <p>20 Day 38 transcript on Page 912.</p> <p>21 A. Is that the little one or --</p> <p>22 Q. It's the little one, yes.</p> <p>23 On Page 912 -- oh, I'm sorry. It's on 913. It's the</p> <p>24 first sentence on 913. Oh, no, it's not. You know what, let's</p> <p>25 just stick to your public -- to the statement in the op-ed.</p>	<p style="text-align: right;">136</p> <p>1 think that they had a provisional ballot of a couple days, two</p> <p>2 days, maybe. I think that they did allow a religious exemption</p> <p>3 for being photographed, and I think they allowed an indigent</p> <p>4 provision. I think their ID requirements were one of the</p> <p>5 specific ID requirements, something along those lines. I don't</p> <p>6 think they were spelled out the same as in Texas and Georgia.</p> <p>7 Q. And so that was also different from S.B. 14?</p> <p>8 A. Yes.</p> <p>9 Q. And do you know what the ID requirement was in Indiana</p> <p>10 before the law that you're discussing?</p> <p>11 A. I don't remember.</p> <p>12 Q. Now, with regard to increased turnout, the statistics</p> <p>13 from Indiana and Georgia that you've cited in the op-ed, what</p> <p>14 elections were those?</p> <p>15 A. I can't recall exactly, but I know in committee</p> <p>16 testimony in -- the Secretary of State from Georgia was our</p> <p>17 expert that we brought in, and he testified that in 2008, they</p> <p>18 had a significant increase, but in the elections since 2008,</p> <p>19 they had an increase in participation in election turnout in</p> <p>20 person, and the increase was more so for the minority vote.</p> <p>21 Q. And that's in Georgia?</p> <p>22 A. Yes.</p> <p>23 Q. And are you aware of who the candidates were for the</p> <p>24 presidential election in 2008?</p> <p>25 A. I do, yes, sir.</p>

<p style="text-align: right;">137</p> <p>1 Q. And who were they?</p> <p>2 A. President Obama and Senator McCain.</p> <p>3 Q. And are you aware of whether there were any voter</p> <p>4 registration efforts in the minority community in Georgia prior</p> <p>5 to the 2008 election?</p> <p>6 MR. SWEETEN: I want to go ahead and just</p> <p>7 instruct you not to reveal thoughts, mental impressions or</p> <p>8 opinions about legislation. To the extent that you have this</p> <p>9 information based on a public record, you can feel free to</p> <p>10 provide that.</p> <p>11 A. From reading the newspaper, I saw that there were</p> <p>12 voter drives, but I don't know specifically where they were.</p> <p>13 Q. And can you think of any reason why there might be</p> <p>14 higher turnout in 2008 unrelated to voter ID among minority</p> <p>15 population in Georgia than in prior elections?</p> <p>16 A. I think in --</p> <p>17 MR. SWEETEN: Same instruction.</p> <p>18 A. I think the testimony in committee was, yes,</p> <p>19 there -- there was a higher turnout in 2008 and in committee</p> <p>20 there were testimony from members of the committee and the</p> <p>21 public that said, well, that was probably attributed to the</p> <p>22 presidential race.</p> <p>23 Q. Uh-huh.</p> <p>24 A. But the Secretary of Georgia's testimony followed up</p> <p>25 saying that, yes, they had had increased participation in other</p>	<p style="text-align: right;">139</p> <p>1 A. Not that I recall in testimony.</p> <p>2 Q. And you're not aware of any get-out-the-vote efforts</p> <p>3 in Georgia in the elections at issue?</p> <p>4 A. Not that I recall.</p> <p>5 Q. Are you aware of any national trends concerning voter</p> <p>6 registration in states other than Georgia and Indiana in those</p> <p>7 same elections?</p> <p>8 A. You know, I'm sure I've read articles on it. I just</p> <p>9 can't grasp the information right now.</p> <p>10 Q. And are you aware of any national trends concerning</p> <p>11 turnout in those same elections?</p> <p>12 A. No.</p> <p>13 Q. So you stated that you'd gotten information from the</p> <p>14 Secretary of State of Indiana and the Secretary of State of</p> <p>15 Georgia. Did you get information from any academic studies?</p> <p>16 MR. SWEETEN: Hold on a second. Just make sure</p> <p>17 you're not revealing mental impressions, opinions about the</p> <p>18 legislation or discussions you've had with legislators,</p> <p>19 legislative staff, state agencies, Leg Council or constituents</p> <p>20 in answering that question.</p> <p>21 A. Your statement was that I got information from them.</p> <p>22 The information we got was through testimony.</p> <p>23 Q. Okay. But in preparing this op-ed that I have here,</p> <p>24 you stated that the statistics from Indiana and Georgia show</p> <p>25 that ID requirements work. And so I'm wondering, with regard to</p>
<p style="text-align: right;">138</p> <p>1 election since. And I can't tell you the number, but Georgia</p> <p>2 has a lot of elections.</p> <p>3 Q. Okay. But there would be newly registered minority</p> <p>4 voters because of the presidential race, wouldn't there be?</p> <p>5 A. I don't know.</p> <p>6 Q. And with regard to Indiana, because you also cited</p> <p>7 Indiana in your op-ed, do you know what elections you're</p> <p>8 referring to there?</p> <p>9 A. The testimony was -- I think it was written, and he</p> <p>10 referenced -- he referenced a couple of elections, two or three,</p> <p>11 but I can't tell you which ones.</p> <p>12 Q. And so you're not aware of who the candidates were?</p> <p>13 A. No.</p> <p>14 Q. And you're not aware of general population trends in</p> <p>15 either Georgia or Indiana that would account for changes in the</p> <p>16 number of votes?</p> <p>17 A. No.</p> <p>18 Q. And you're not aware of any changes with regard to</p> <p>19 registration rates in Indiana?</p> <p>20 A. Not that I recall.</p> <p>21 Q. And you're not aware of any voter registration efforts</p> <p>22 in Indiana?</p> <p>23 A. Not that I recall.</p> <p>24 Q. And you're not aware of any get-out-the-vote efforts</p> <p>25 in Indiana and the elections at issue?</p>	<p style="text-align: right;">140</p> <p>1 statistics, did you get information in the form of any studies?</p> <p>2 MR. SWEETEN: Same instruction on legislative</p> <p>3 privilege.</p> <p>4 A. The testimony in committee, they gave us the specific</p> <p>5 breakdown of the number of voters in the elections, and that was</p> <p>6 what I was relying on.</p> <p>7 Q. And so you were not relying on any academic studies at</p> <p>8 all?</p> <p>9 MR. SWEETEN: Same instruction.</p> <p>10 A. I was relying on the testimony in committee.</p> <p>11 Q. Okay. Was there any testimony given in committee by</p> <p>12 other individuals who stated that voter ID was likely to</p> <p>13 decrease turnout?</p> <p>14 A. I can't recall specifically, but there was a full</p> <p>15 range of people testifying on the bill.</p> <p>16 Q. Did anyone from the Brennan Center for Justice</p> <p>17 testify?</p> <p>18 A. I can't recall specifically if they testified, but I</p> <p>19 know there was discussion about the Brennan Justice and the</p> <p>20 report that they had done. I don't know if there was someone</p> <p>21 from that group that actually testified or if it was brought up</p> <p>22 by a committee member.</p> <p>23 Q. And why did you not rely on that report in terms of</p> <p>24 its projections of turnout or the effect of the bill?</p> <p>25 MR. SWEETEN: To the extent that he's asking you</p>

<p style="text-align: right;">141</p> <p>1 to reveal your thoughts, mental impressions or opinions about</p> <p>2 the legislation, don't reveal those or any communications.</p> <p>3 A. I believe by answering that, that would reveal private</p> <p>4 conversations.</p> <p>5 Q. And why did you not rely on any academic studies</p> <p>6 concerning the effect of turnout --</p> <p>7 A. Again, by answering that, that's private</p> <p>8 conversations.</p> <p>9 Q. Okay.</p> <p>10 A. Other than what was discussed publicly.</p> <p>11 Q. Now, previously, we discussed how the number of voters</p> <p>12 who turned out in each of your elections has differed in the</p> <p>13 three times that you've run. That's correct, right?</p> <p>14 A. I think that's what we kind of said, yeah. You were</p> <p>15 going to get the numbers, I thought.</p> <p>16 Q. And I neglected to do that during lunch, for which I</p> <p>17 apologize, and I will try to get it during our next break. We</p> <p>18 didn't take a long lunch.</p> <p>19 And can I ask, what factors do you think were</p> <p>20 responsible for the different levels of turnout in each of your</p> <p>21 own elections?</p> <p>22 A. Well, I'm not exactly sure that there were that big of</p> <p>23 differences. I think there probably was but I'm not sure so</p> <p>24 until I see what elections they were and what the difference was</p> <p>25 it would be hard to speculate on that.</p>	<p style="text-align: right;">143</p> <p>1 something I would say.</p> <p>2 Q. Okay. Is it your understanding that S.B. 14 will let</p> <p>3 voters know that their vote counts?</p> <p>4 MR. SWEETEN: Don't reveal your mental</p> <p>5 impressions, thoughts or opinions about the legislation itself.</p> <p>6 You can -- also don't reveal communications that you've had as</p> <p>7 outlined before. But you can go ahead and answer that question.</p> <p>8 A. My testimony was that participation will likely</p> <p>9 increase or -- I think I believe that it will increase because</p> <p>10 of the increased confidence in the election process.</p> <p>11 Q. Do you believe it is necessary to let individuals know</p> <p>12 that their vote counts?</p> <p>13 MR. SWEETEN: Same instruction as to the</p> <p>14 legislative privilege. Go ahead.</p> <p>15 A. I think my testimony on the floor was that it's</p> <p>16 important -- it's important for everyone to know that one</p> <p>17 person, one vote, and that when you show up to cast your vote</p> <p>18 that your vote matters.</p> <p>19 Q. Okay.</p> <p>20 A. That it counts.</p> <p>21 Q. Is any individual's vote not counted under current law</p> <p>22 when they show up at the polls with their voter registration</p> <p>23 certificate?</p> <p>24 A. I wouldn't be able to answer that. I don't work in</p> <p>25 the registrar's office.</p>
<p style="text-align: right;">142</p> <p>1 Q. Okay. We'll try and get those numbers in a moment.</p> <p>2 A. Thank you.</p> <p>3 Q. Now, you also stated to the Houston Chronicle in a</p> <p>4 different article do you recall stating we will increase turnout</p> <p>5 for all voters because it protects our integrity of the election</p> <p>6 it makes you know that your vote counts? Do you recall making</p> <p>7 that statement?</p> <p>8 A. I don't recall that, but I do recall a few interviews</p> <p>9 and being somewhat disappointed in how they paraphrased what I</p> <p>10 said. I don't know if that was the specific article.</p> <p>11 Q. Well, let's see. This should be U.S. Exhibit 20. And</p> <p>12 let's see if this is one of those instances. Hopefully it won't</p> <p>13 be.</p> <p>14 (Exhibit No. 20 marked)</p> <p>15 A. If it's Gary Scharrer, probably -- yeah.</p> <p>16 Q. Do you see right above "Full GOP support" where it has</p> <p>17 a quote?</p> <p>18 A. Yes.</p> <p>19 Q. Is that an accurate statement, to your knowledge?</p> <p>20 A. Let me finish reading.</p> <p>21 Q. Sure.</p> <p>22 MR. SWEETEN: Were you asking is that an accurate</p> <p>23 quote, Dan?</p> <p>24 MR. FREEMAN: Yes.</p> <p>25 A. Yeah. I'm -- I don't -- this doesn't sound like</p>	<p style="text-align: right;">144</p> <p>1 Q. But if an individual shows up -- if S.B. 14 becomes</p> <p>2 law and an individual shows up at the polls with their voter</p> <p>3 registration certificate, but they lack a photo ID, isn't it the</p> <p>4 case that their vote will not be counted if they don't have the</p> <p>5 other necessary ID?</p> <p>6 A. The testimony on the floor was that if they show up</p> <p>7 and don't have a photo ID, if S.B. 14 is implemented, that they</p> <p>8 can cast a provisional ballot, have six days to go back to the</p> <p>9 registrar and provide the documentation needed, and their vote</p> <p>10 would be counted.</p> <p>11 Q. But if they don't have that documentation, they don't</p> <p>12 own that documentation, their vote will not be counted? That</p> <p>13 provisional ballot will be thrown away. Isn't that the case?</p> <p>14 MR. SWEETEN: Same instruction on legislative</p> <p>15 privilege. Go ahead and answer.</p> <p>16 A. I'm not sure of the procedures that happen after they</p> <p>17 cast their provisional ballot.</p> <p>18 Q. But if they have six days to show up and show an ID,</p> <p>19 if they don't arrive and show an ID, are you aware of what</p> <p>20 happens to the provisional ballot and whether it is counted?</p> <p>21 A. I think the testimony on the floor was if they don't</p> <p>22 show up within the six days with the proper information that</p> <p>23 that is considered a provisional ballot as the standards are</p> <p>24 already in place with the Secretary of State and the registrar's</p> <p>25 office.</p>

<p style="text-align: right;">145</p> <p>1 Q. Okay. And I think we have the figures from your 2 general elections. If I can represent from the Secretary of 3 State's office that in 2006 there were 27,962 votes cast in your 4 general election, 27,962. In 2008 there were 55,131 votes cast 5 in your general election. And in 2010 there were 37,472 votes 6 cast. And that's from the Texas Secretary of State's web site. 7 A. And that was in District 126? 8 Q. In District 126, in your race. And you had a healthy 9 percentage each time. 10 A. Okay. 11 Q. So can I ask, stepping back, what are the factors that 12 you believe were responsible for the different levels of turnout 13 in each one of those elections? 14 MR. SWEETEN: Objection, calls for speculation. 15 Q. To the extent that you have political knowledge of 16 your own district and were able to win that district? 17 MR. SWEETEN: Same objection. 18 A. I don't know how to answer that without going into the 19 process of our campaign. 20 Q. I don't believe that the process of your campaign is 21 privileged in this matter, and your counsel has not asserted a 22 privilege over that. So I would ask, to the extent necessary to 23 answer the question, but no more than necessary, I would ask 24 what factors you thought were responsible for the number of 25 votes essentially doubling from 2006 to 2008 and then dropping</p>	<p style="text-align: right;">147</p> <p>1 A. Okay. Of running a campaign? 2 Q. Yes, absolutely. 3 A. 2010 I know there were a lot of local races -- 4 Q. Uh-huh. 5 A. -- that were more contested than in the past. 6 Q. Uh-huh. 7 A. And there was a lot of participation in pushing 8 getting out the vote. 9 Q. Okay. 10 A. I know my campaign we did several mail pieces to get 11 out the vote and calling our supporters, saying, you need to 12 show up and vote. 13 Q. Is it possible that those same types of local 14 contested local races and get-out-the-vote efforts occurred in 15 Georgia? 16 A. I can't speak for Georgia. 17 Q. But is it possible that those occurred in Indiana as 18 well? 19 A. I can't speak for Indiana. I can speak for District 20 126. 21 Q. Sure. And in District 126 you saw between 22 non-presidential years a significant increase from 2006 to 2010 23 is that correct, in terms of turnout? 24 A. From what you have here, 17,000 out of 20,000. 25 Q. That's almost doubling; isn't that right?</p>
<p style="text-align: right;">146</p> <p>1 by approximately 18,000 between 2008 and 2010, but that 2010 2 level being significantly higher than 2006? 3 A. In my experience in the campaigns -- 4 MR. SWEETEN: Hold on. Objection, calls for 5 speculation, but go ahead. 6 A. In my experience in the campaigns, presidential 7 election always has a larger percentage of participation. 8 Q. Okay. 9 A. And that was 2008. 10 Q. What about 2010? 11 A. That is a governor's race. 12 Q. Okay. 13 A. And that also has an increase in participation. 14 Q. Wasn't there a governor's race in 2006? 15 A. Yes, possibly, but I don't know who was -- I don't 16 know who was fighting for the governor's race then. 17 Q. So it's possible that -- well, wasn't Governor Perry 18 elected in 2006? 19 A. Yes, he was. 20 Q. But it's possible that if the governor's race were 21 more contested in 2006 -- or excuse me -- in 2010 than it was in 22 2006 that more people would turn out? 23 MR. SWEETEN: Objection, speculation. 24 Q. Based on your knowledge of Texas politics, as a member 25 of the Texas House of Representatives.</p>	<p style="text-align: right;">148</p> <p>1 A. How much is the population growth from 2006 to 2010? 2 MR. SWEETEN: Let me make sure the numbers. 3 27,000 is what I heard him say is the '06. 4 Q. So that's another 10,000. Thank you for the 5 correction. 6 A. Another 10,000. 7 Q. Another 10,000 voters? 8 A. I can't answer those questions because I don't know 9 what the population of District 126 was in 2006 and what it was 10 in 2008 and what it was in 2010. 11 Q. But the number -- the turnout rose by approximately 35 12 percent or so? 13 A. I don't know. 14 Q. And there was no change in the voter identification 15 law between 2006 and 2010, correct? 16 A. Not that I know of. 17 Q. And so there were other factors that were responsible 18 for that increase in turnout, correct? 19 MR. SWEETEN: Objection, calls for speculation. 20 Go ahead and answer, if you can. 21 A. I don't know. 22 Q. I mean, as a matter of logic, if it wasn't photo ID, 23 it had to be something else, correct? 24 A. I don't know how to answer that. 25 Q. Okay. Let's move on. Does S.B. 14 address any other</p>

<p style="text-align: right;">149</p> <p>1 problems other than what we've discussed?</p> <p>2 MR. SWEETEN: I'm going to go ahead and instruct</p> <p>3 you, based on the legislative privilege, do not reveal thoughts,</p> <p>4 mental impressions, opinions about Senate Bill 14. Don't reveal</p> <p>5 communications you've had with any of the areas that we've</p> <p>6 already gone over. If you can, go ahead and answer.</p> <p>7 Q. Allow me to rephrase. Is the purpose of S.B. 14 to</p> <p>8 address any other problems than the ones we have discussed?</p> <p>9 MR. SWEETEN: Hold on one second. Okay. Are you</p> <p>10 asking about the purpose of the bill or are you asking about the</p> <p>11 individual purpose of the legislators who passed the bill or</p> <p>12 their thought process or mental impression?</p> <p>13 MR. FREEMAN: I am asking about the purpose of</p> <p>14 the bill.</p> <p>15 MR. SWEETEN: The purpose of the bill as written,</p> <p>16 as passed, Senate Bill 14.</p> <p>17 MR. FREEMAN: As written and passed, stated and</p> <p>18 unstated purpose, in any context.</p> <p>19 MR. SWEETEN: I'm going to let you answer, to the</p> <p>20 extent you know.</p> <p>21 A. I've answered this before. The purpose of the bill</p> <p>22 was to increase participation by protecting the integrity of the</p> <p>23 election process.</p> <p>24 Q. I will note that your counsel has not objected and has</p> <p>25 not instructed you to limit your testimony to the public record.</p>	<p style="text-align: right;">151</p> <p>1 license to carry?</p> <p>2 A. I know in committee there was testimony of a number</p> <p>3 presented by Ann McGeehan but I -- when I asked her more</p> <p>4 questions on, could that number be accurate, could there be name</p> <p>5 issues, could that number of people have one of the other forms</p> <p>6 of identification, she said yes. So I -- I just know the number</p> <p>7 that was -- she presented.</p> <p>8 Q. Do you recall ever telling the Dallas Morning News</p> <p>9 that you assumed that the population without a necessary ID</p> <p>10 would be very, very small?</p> <p>11 A. I think, yes. Could be possible.</p> <p>12 Q. Okay. Did you ever try to find out what that number</p> <p>13 was beyond your conversation with Ms. McGeehan?</p> <p>14 MR. SWEETEN: I'm going to instruct you at this</p> <p>15 point that, based upon legislative privilege, don't reveal</p> <p>16 thoughts, impression or opinions or discussion you had with</p> <p>17 legislators, state agencies, legislative staff, Texas</p> <p>18 Legislative Council or constituents.</p> <p>19 A. The discussion -- we had that discussion in committee</p> <p>20 and we tried to get to those numbers, and there was never a real</p> <p>21 good answer from the Secretary of State's office.</p> <p>22 Q. Okay. I'm going to ask a series of privilege log</p> <p>23 questions, if that's all right. Did you have a conversation</p> <p>24 with the Department of Public Safety concerning the number of --</p> <p>25 or concerning the number of registered voters who lacked a Texas</p>
<p style="text-align: right;">150</p> <p>1 And, therefore, I would ask, is the purpose of the bill, as you</p> <p>2 understand, from both public and non-public sources, legislators</p> <p>3 and all other sources from which legislators derive the purpose</p> <p>4 of a bill, limited to only those purposes that we have</p> <p>5 previously discussed?</p> <p>6 A. I can only speak to my purpose.</p> <p>7 Q. Okay.</p> <p>8 A. And that was to protect the integrity of the election</p> <p>9 process, as I stated a number of times on the floor.</p> <p>10 Q. Okay. Nothing else than we've discussed?</p> <p>11 A. There's pages of testimony.</p> <p>12 Q. Okay. I just want to make sure we're closing off.</p> <p>13 A. I answer all those questions here.</p> <p>14 Q. Do you know of any other purpose held by any other</p> <p>15 legislator that may be construed as the purpose of the bill?</p> <p>16 MR. SWEETEN: Hold on a second. I'm going to</p> <p>17 object. That calls for speculation. I'm also going to object.</p> <p>18 You're asking her to reveal thoughts, mental impressions,</p> <p>19 opinions, discussions with other legislators, legislative staff.</p> <p>20 Those are covered by the legislative privilege. I'm going to</p> <p>21 reassert the objection to that issue.</p> <p>22 A. I couldn't answer that anyway. I don't know what</p> <p>23 their thought processes are -- is.</p> <p>24 Q. Let's move on then. Do you know how many registered</p> <p>25 voters in Texas lack a driver's license, state ID card, or</p>	<p style="text-align: right;">152</p> <p>1 photo ID?</p> <p>2 MR. SWEETEN: I'm going to let you answer that</p> <p>3 question. It's a yes or no question.</p> <p>4 A. During committee hearing, yes.</p> <p>5 Q. Did you ever reach out via telephone, e-mail, anything</p> <p>6 like that, outside the context of committee hearing, to try and</p> <p>7 get an answer to that question, given that you said you did not</p> <p>8 receive a definite answer from Ms. McGeehan?</p> <p>9 A. I think during the committee we asked specifically for</p> <p>10 some information from TXDOT, and they were to provide that</p> <p>11 information in the future. And I don't know if they did. I</p> <p>12 can't recall.</p> <p>13 Q. Is TXDOT the Texas Department of Transportation?</p> <p>14 A. Yes. I'm sorry.</p> <p>15 Q. Is the Department of Public Safety somehow related to</p> <p>16 TXDOT?</p> <p>17 A. Yes.</p> <p>18 Q. What is the relationship between the two?</p> <p>19 A. At the time it was a division under TXDOT.</p> <p>20 Q. Are they separate now?</p> <p>21 A. No. I think they're still probably -- I think they</p> <p>22 are. I don't know TXDOT changes.</p> <p>23 Q. So just so I understand, you asked the Department of</p> <p>24 Public Safety or TXDOT for information concerning the number of</p> <p>25 registered voters who lacked photo ID, but you're not sure</p>

<p style="text-align: right;">153</p> <p>1 whether you received it?</p> <p>2 A. I don't know that we specifically asked the way you</p> <p>3 did.</p> <p>4 Q. Okay.</p> <p>5 A. It was during committee, and I don't remember the</p> <p>6 specific question that we asked her. But I know that it was</p> <p>7 something that she said she would have to follow up on.</p> <p>8 Q. And did you make sure that she followed up?</p> <p>9 A. I don't know that I did. I think my staff might have,</p> <p>10 I am not sure. It wasn't necessarily a question I was looking</p> <p>11 for.</p> <p>12 Q. Are you -- strike that.</p> <p>13 Who do you believe will make up the group of</p> <p>14 individuals whose lack the necessary photo ID, the driver's</p> <p>15 license, state ID card or license to carry? What is your</p> <p>16 understanding based on everything you've learned?</p> <p>17 MR. SWEETEN: Okay. Don't reveal thoughts,</p> <p>18 mental impressions about legislation. Don't reveal</p> <p>19 communications you've had with state agencies, legislative</p> <p>20 staff, legislators, Texas Leg Council or constituents in</p> <p>21 answering this question.</p> <p>22 A. My testimony in committee and on the floor in the</p> <p>23 debate was that I think there is a very, very small universe of</p> <p>24 people that won't have one of the approved forms of ID. And if</p> <p>25 there are any, we provided for a free ID card.</p>	<p style="text-align: right;">155</p> <p>1 who are registered voters who lack a Texas driver's license,</p> <p>2 state ID card, or license to carry will be more likely to be</p> <p>3 members of racial minority groups?</p> <p>4 MR. SWEETEN: Same instruction on legislative</p> <p>5 privilege. Don't reveal your mental impressions or opinions</p> <p>6 about legislation or communications that we've discussed.</p> <p>7 A. And my answer is the same as it has been. I feel like</p> <p>8 that the people that do not have one of the approved forms of ID</p> <p>9 will be a very small universe and we have provided for a free</p> <p>10 election certificate card for those.</p> <p>11 Q. Are you aware that the State of Texas recently</p> <p>12 informed the attorney general that there are 795,955 individuals</p> <p>13 in the State of Texas who are registered voters and lack a Texas</p> <p>14 driver's license or photo ID?</p> <p>15 MR. SWEETEN: Objection. I think that misstates</p> <p>16 -- I'm going to object. I think that assumes facts not in</p> <p>17 evidence.</p> <p>18 MR. FREEMAN: Well, I will get that into</p> <p>19 evidence. If we can have this marked U.S. 21.</p> <p>20 (Exhibit No. 21 marked)</p> <p>21 Q. Take a moment to read this letter. And so just to</p> <p>22 clarify, do you now understand that the recent comparison</p> <p>23 conducted by the State of Texas between the registered voter</p> <p>24 database to its driver's license database indicated that 795,955</p> <p>25 registered voters lack a Texas driver's license?</p>
<p style="text-align: right;">154</p> <p>1 Q. Is that the election identification certificate?</p> <p>2 A. Right, a free election identification certificate.</p> <p>3 Q. We'll discuss more about that later. Can I just ask,</p> <p>4 do you think that the individuals who lack the ID will be more</p> <p>5 likely to be poor?</p> <p>6 MR. SWEETEN: Same objection. Don't reveal any</p> <p>7 sort of thoughts, mental impressions, opinions about legislation</p> <p>8 or conversations you've had with state agencies, staff,</p> <p>9 legislators, Leg Council or constituents.</p> <p>10 A. The testimony that I stated on the floor a number of</p> <p>11 times was that I think that it will be a small universe and they</p> <p>12 have access to a free election certificate card.</p> <p>13 Q. If I can just look back real quickly. You said a</p> <p>14 moment ago that following up with DPS on the number of</p> <p>15 registered voters without acceptable ID was not something you</p> <p>16 were interested in. Why not?</p> <p>17 MR. SWEETEN: I'm going to object. I think that</p> <p>18 asks for her to reveal thoughts, mental impressions, opinions</p> <p>19 about legislation.</p> <p>20 You can testify as to whether or not you had</p> <p>21 follow-up conversation with DPS; however, I don't want you to</p> <p>22 testify about communications with state agencies such as DPS</p> <p>23 A. I don't know that I had follow-up conversations with</p> <p>24 them, but a lot of that I rely on my staff to do.</p> <p>25 Q. Okay. Do you believe that the individuals who lack --</p>	<p style="text-align: right;">156</p> <p>1 A. That's what this says.</p> <p>2 Q. Do you consider that number to be very, very small?</p> <p>3 A. I consider that number in relation to we don't know</p> <p>4 that they have a citizenship paper with an ID, a CSL, a</p> <p>5 passport. They may have one of the other approved forms of</p> <p>6 identification.</p> <p>7 Q. But you don't know whether any of them do either; is</p> <p>8 that correct?</p> <p>9 A. I don't know that for a fact.</p> <p>10 Q. Do you think it's likely that individuals who don't</p> <p>11 have a driver's license will have a passport, given what those</p> <p>12 two documents are needed for?</p> <p>13 MR. SWEETEN: Objection, calls for speculation.</p> <p>14 You can answer.</p> <p>15 Q. Based on your life experience?</p> <p>16 MR. SWEETEN: Don't reveal thoughts, mental</p> <p>17 impressions, opinions about legislation or any communications</p> <p>18 that you've had with legislators, legislative staff, state</p> <p>19 agencies, constituents or Leg Council.</p> <p>20 A. I would not be surprised to learn that people without</p> <p>21 a driver's license may have a passport.</p> <p>22 Q. Significant numbers of people?</p> <p>23 A. I can't answer that.</p> <p>24 MR. SWEETEN: Objection, calls for speculation.</p> <p>25 Same instruction.</p>



<p style="text-align: right;">157</p> <p>1 Q. Have you ever seen a U.S. citizenship certificate?</p> <p>2 A. Not that I recall.</p> <p>3 Q. Do you know if all of them have photographs on them?</p> <p>4 A. Not that I recall.</p> <p>5 Q. Could you take another look at Exhibit No. 20, the</p> <p>6 article from May 17th from the Houston Chronicle. Do you see in</p> <p>7 there where you told the Chronicle that you did not believe the</p> <p>8 bill would disenfranchise minority voters?</p> <p>9 A. Where is that at? I'm trying to skim, but my eyes are</p> <p>10 getting foggy.</p> <p>11 Q. It says, "Representative Patricia Harless, republican</p> <p>12 of Spring, House author of the voter ID bill dismissed</p> <p>13 assertions that the bill would disenfranchise minority voters."</p> <p>14 Do you see that?</p> <p>15 A. I think that is the reporter reading into an interview</p> <p>16 what he wants.</p> <p>17 Q. Do you believe that the bill will disenfranchise</p> <p>18 minority voters?</p> <p>19 MR. SWEETEN: I'm going to instruct you as to</p> <p>20 legislative privilege. Don't reveal thoughts, mental</p> <p>21 impressions, opinions about legislation or conversations you had</p> <p>22 with any of the individuals or entities that we named. Without</p> <p>23 revealing that, you can answer that question.</p> <p>24 A. I believe that by answering that question it would</p> <p>25 reveal private conversations with constituents and other</p>	<p style="text-align: right;">159</p> <p>1 A. I can't speculate on what will happen.</p> <p>2 Q. Do you know if there are any minority voters who lack</p> <p>3 the necessary ID and don't own cars needed to get to a driver's</p> <p>4 license office?</p> <p>5 A. I don't know of any.</p> <p>6 Q. Do you know if there are any minority voters who</p> <p>7 currently lack the necessary ID and work during the hours when</p> <p>8 driver's license offices are open?</p> <p>9 MR. SWEETEN: Again, I'm instructing you about</p> <p>10 legislative privilege. Don't reveal thoughts, mental</p> <p>11 impressions or opinions about legislation or discussion you've</p> <p>12 had with individuals that we discussed earlier.</p> <p>13 A. I don't know of any.</p> <p>14 Q. Now, you described the election identification</p> <p>15 certificate under S.B. 14 as a free ID, right?</p> <p>16 A. Free election voter certificate.</p> <p>17 Q. But free?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Do you know what documents are needed in order</p> <p>20 to get the election identification certificate under S.B. 14?</p> <p>21 MR. SWEETEN: Representative Harless, you can</p> <p>22 answer this question, but don't reveal thoughts, mental</p> <p>23 impressions or opinions about legislation or conversations that</p> <p>24 you've had with the individuals or entities we've discussed</p> <p>25 earlier.</p>
<p style="text-align: right;">158</p> <p>1 legislators.</p> <p>2 Q. So just to be clear, you're asserting legislative</p> <p>3 privilege with regard to your understanding of whether the</p> <p>4 effect of S.B. 14 will be to disenfranchise some minority</p> <p>5 voters; is that correct?</p> <p>6 A. I am asserting privilege from answering the question</p> <p>7 that a reporter is summarizing, without a quote, of what his</p> <p>8 feelings are about my statement.</p> <p>9 MR. SWEETEN: I think he's referring to --</p> <p>10 THE WITNESS: I think he's referring to that.</p> <p>11 Q. I'm happy to step away from the op-ed and just say --</p> <p>12 THE WITNESS: I think that's what he's --</p> <p>13 Q. Without with regard to the article there, do you now</p> <p>14 believe that S.B. 14 will not disenfranchise minority voters?</p> <p>15 MR. SWEETEN: Don't reveal the matters of the --</p> <p>16 A. I can't answer that without revealing private</p> <p>17 conversations.</p> <p>18 Q. Okay. So I just wanted to be clear that you are</p> <p>19 asserting legislative privilege with regard to that question.</p> <p>20 It is now clear.</p> <p>21 A. Yes.</p> <p>22 Q. Do you believe that any valid registered voters will</p> <p>23 show up to vote if S.B. 14 is implemented and will be turned</p> <p>24 away -- excuse me -- will have to vote a provisional ballot</p> <p>25 because they lack the necessary ID?</p>	<p style="text-align: right;">160</p> <p>1 A. I know there was discussion in committee and on the</p> <p>2 floor, but I can't tell you the specific requirements to get an</p> <p>3 ID or a driver's license off the top of my head, without going</p> <p>4 back and refreshing my memory.</p> <p>5 Q. Okay. And we discussed earlier that you didn't know</p> <p>6 how much it cost to get a new copy of a birth certificate or a</p> <p>7 name change certificate. Do you know if those cost money,</p> <p>8 though?</p> <p>9 A. I don't recall.</p> <p>10 Q. If an ID requires documents that you have to pay for,</p> <p>11 then you can't get the ID without paying money, correct? If I</p> <p>12 have to buy a document to get the free document, then the free</p> <p>13 document -- I still have to spend money before I get the free</p> <p>14 document, correct?</p> <p>15 MR. SWEETEN: Objection, argumentative. Also</p> <p>16 instruct as to legislative privilege. But go ahead. You can</p> <p>17 answer.</p> <p>18 A. I have to say I agree with my attorney. I can't</p> <p>19 speculate on any of that. I know that we provided for people</p> <p>20 that do not have one of the approved forms of identification to</p> <p>21 get a free election certificate card.</p> <p>22 Q. Okay. Where can a voter obtain the election</p> <p>23 identification certificate?</p> <p>24 A. I think --</p> <p>25 MR. SWEETEN: Same instruction on leg privilege.</p>

<p style="text-align: right;">161</p> <p>1 You can go ahead and answer -- legislative privilege. Go ahead.</p> <p>2 A. I think the debate on the floor was that that would be</p> <p>3 provided by DPS and they would provide the standards upon what</p> <p>4 is required to get a free ID card.</p> <p>5 Q. But do you know where you get the ID card?</p> <p>6 A. From I think the DPS. If I remember correctly, the</p> <p>7 DPS office.</p> <p>8 Q. And do you know if those offices are -- strike that.</p> <p>9 Does S.B. 14 require employers to provide paid leave</p> <p>10 in order for an individual to go get an EIC?</p> <p>11 MR. SWEETEN: Same instruction on leg privilege.</p> <p>12 You can go ahead and answer.</p> <p>13 A. I don't remember any -- I don't remember that as being</p> <p>14 part of the bill.</p> <p>15 Q. And is it possible that some individuals in Texas live</p> <p>16 at least 50 miles from a driver's license office?</p> <p>17 A. I think there was --</p> <p>18 MR. SWEETEN: Okay. Hold on. I'm going to</p> <p>19 instruct you as to leg privilege. Don't reveal mental thoughts,</p> <p>20 impressions, opinions about legislation. Also don't reveal</p> <p>21 conversations you've had with any of the individuals or entities</p> <p>22 we've discussed.</p> <p>23 A. I think there was testimony or debate on the floor</p> <p>24 that that was possible. I don't know that for a fact.</p> <p>25 Q. How much would the gas cost to drive 100 miles</p>	<p style="text-align: right;">163</p> <p>1 Q. Beginning with, "The bill also provides."</p> <p>2 A. Okay.</p> <p>3 Q. Do you agree that you stated that, "The bill also</p> <p>4 provides reasonable exceptions to the photo ID requirement for</p> <p>5 indigent voters"?</p> <p>6 A. Yes.</p> <p>7 Q. And that's in addition to the photo election ID for</p> <p>8 registered voters who request an ID, correct, as you stated it</p> <p>9 in your op-ed?</p> <p>10 A. It says, "indigent and disabled voters and allows</p> <p>11 individuals not carrying a photo ID to vote provisionally, as</p> <p>12 long as they provide verification of their identity within six</p> <p>13 days of the election."</p> <p>14 Q. What is this exception for indigent voters?</p> <p>15 A. From the legislation?</p> <p>16 Q. Uh-huh.</p> <p>17 A. I can't remember exactly.</p> <p>18 Q. Did that exception remain in the bill as it was</p> <p>19 signed, or was that only a part of an earlier version of the</p> <p>20 bill?</p> <p>21 A. I can't remember.</p> <p>22 MR. SWEETEN: Same instruction on leg privilege.</p> <p>23 Go ahead and answer.</p> <p>24 A. I can't remember.</p> <p>25 Q. Isn't it the case that that exception was removed</p>
<p style="text-align: right;">162</p> <p>1 roundtrip?</p> <p>2 A. I sell cars for a living. It could cost as much as \$5</p> <p>3 or --</p> <p>4 Q. 100 miles?</p> <p>5 A. If you have an electric car, it doesn't cost you</p> <p>6 anything.</p> <p>7 Q. How much would it cost you, in your car, to drive 100</p> <p>8 miles?</p> <p>9 A. I'd have to guess.</p> <p>10 Q. Approximately?</p> <p>11 A. 100 miles? Probably \$20, \$25.</p> <p>12 Q. Okay. Now, if you could take another look at your</p> <p>13 op-ed real quickly from November of 2011. You stated in that</p> <p>14 op-ed that S.B. 14 contains a reasonable exception for indigent</p> <p>15 voters in addition to the election identification certificate;</p> <p>16 is that correct?</p> <p>17 A. Where are you reading that at, just to save me from</p> <p>18 reading everything again.</p> <p>19 Q. It's the bottom of the second full paragraph. "The</p> <p>20 bill also provides." Last sentence.</p> <p>21 A. On the first page?</p> <p>22 Q. First page, yes.</p> <p>23 A. My last paragraph said, "The provisions will ensure."</p> <p>24 Q. The second full paragraph, last sentence.</p> <p>25 A. Okay.</p>	<p style="text-align: right;">164</p> <p>1 during the amendment process?</p> <p>2 A. It could be possible. I don't remember.</p> <p>3 Q. During the debate, do you recall stating that --</p> <p>4 sorry. Strike that.</p> <p>5 Did you consider it to be an important issue whether</p> <p>6 minority voters were more likely to lack the necessary ID needed</p> <p>7 to vote pursuant to S.B. 14?</p> <p>8 MR. SWEETEN: Don't reveal thoughts, mental</p> <p>9 impressions, opinions about the legislation, discussions you've</p> <p>10 had with leg staff, legislators, state agencies, Leg Council or</p> <p>11 constituents.</p> <p>12 A. I think my testimony on the floor was that I felt that</p> <p>13 everyone -- it would increase participation and protect the</p> <p>14 integrity, and if citizens of Texas did not have the approved</p> <p>15 forms of ID, they were able and eligible to get a voter</p> <p>16 certificate card.</p> <p>17 Q. But it's certainly harder to go get that voter</p> <p>18 identification card, even if it's free, than to just go to a</p> <p>19 polling place and vote, isn't it?</p> <p>20 MR. SWEETEN: Same instruction as to legislative</p> <p>21 privilege.</p> <p>22 A. I don't believe I can answer that.</p> <p>23 Q. I mean, it would be more trouble for you to go seven</p> <p>24 miles from your house to a driver's license office than</p> <p>25 three-quarters of a mile to a polling place, isn't it?</p>

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1 A. Not for the right to vote.

2 Q. But it's more trouble?

3 A. It's a sacrifice I'm willing to make to vote.

4 Q. Are you aware of what turnout rates are statewide in

5 Texas among registered voters?

6 A. I can't tell you off the top of my head, no.

7 Q. Are you aware of whether Texas is a high turnout or

8 low turnout state as percentage, relative to other states in the

9 United States?

10 A. No, I can't answer that.

11 Q. Would it surprise you to learn that it is one of the

12 five lowest turnout states in the United States?

13 A. No reaction to that.

14 Q. Do you think that it is important to make it as easy

15 as possible for voters to be able to exercise the franchise

16 rather than making it harder for them to do so?

17 MR. SWEETEN: Same instruction on leg privilege.

18 A. And I believe by answering that it would reveal

19 private conversations.

20 Q. Do you believe that if African-American or Hispanic

21 voters lacked the required ID at a greater rate than Anglos, the

22 photo ID bill would still be worth enacting?

23 MR. SWEETEN: I'm going to object to the

24 question. It calls for matters that are legislatively

25 privileged, including requiring her to reveal thoughts, mental

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1 impressions or opinions about legislation or communications

2 between she, other legislators, legislative staff, state

3 agencies, Leg Council or constituents.

4 To the extent you can provide information that

5 does not reveal that information, you can go ahead and answer.

6 A. My debate on the floor and my testimony was that I

7 think it will increase participation for all Texans.

8 Q. I'm going to object to that as nonresponsive and ask

9 one more time, is it your belief that if African-American or

10 Hispanic voters lacked the needed ID at a greater rate than

11 Anglos, that the photo ID bill will still be worth enacting?

12 MR. SWEETEN: Same instruction as to legislative

13 privilege. Also objection, asked and answered.

14 A. I agree.

15 Q. Your counsel did not instruct you not to answer. And

16 so if you're not answering on the basis of privilege, please

17 state that for the record.

18 A. I'm not answering on the basis of privilege.

19 Q. Okay.

20 A. Because I felt like I answered it.

21 Q. Okay. Is it your belief that if African-American or

22 Hispanic voters lacked the required voter ID at a rate greater

23 than that of Anglos that this bill would still meet what you

24 described, I believe, as the important criterion of compliance

25 with the Voting Rights Act?

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1 MR. SWEETEN: I'm going to instruct you again as

2 to the legislative privilege. Don't reveal thoughts, mental

3 impressions, opinions about the legislation. Don't reveal

4 communications you've had with legislators, legislative staff,

5 state agencies, Leg Council and constituents.

6 A. And I'm not going to answer that, based on privilege.

7 Q. What do you believe is the purpose of the Voting

8 Rights Act?

9 A. Excuse me?

10 Q. What do you believe is the purpose of the Voting

11 Rights Act?

12 MR. SWEETEN: I'm going to object to the extent

13 that that calls for her to reveal thoughts, mental impressions,

14 opinions about legislation or communications she's had with any

15 of the entities or individuals that we've discussed.

16 MR. FREEMAN: Mr. Sweeten.

17 MR. SWEETEN: To the extent you can answer that

18 question, I'll let you go ahead and do so.

19 MR. FREEMAN: Mr. Sweeten, I'm going to ask what

20 legislative act my question refers to, as I've asked her for

21 general understanding of the purpose of the Federal Voting

22 Rights Act.

23 MR. SWEETEN: First, with respect to any

24 considerations that she had with Senate Bill 14, she's had

25 conversations with individuals or state agencies, et cetera,

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1 where those could have been revealed, I'm instructing her that

2 if those communications occurred do not reveal that information.

3 Also to the extent that that question asks her to

4 reveal thoughts, mental impressions or opinions about

5 legislation, that would be legislatively privileged. To the

6 extent she can answer outside of that, the privilege area, then

7 I'm going to let her do so.

8 MR. FREEMAN: Mr. Sweeten, I'm going to ask you

9 to withdraw your objection on the basis that my question had

10 absolutely nothing to do with S.B. 14 and solely asked

11 Representative Harless' understanding of the purpose of the

12 Federal Voting Rights Act of 1965.

13 MR. SWEETEN: If it has nothing to do with

14 legislative privilege, i.e., any of those communications that

15 we've discussed, she can answer that. If she's had discussions

16 with legislators, state agencies, staff, counsel, constituents

17 about this issue, she does not have to reveal that. She can

18 answer outside of that. If you believe that your question

19 doesn't invade any of those and she also agrees it doesn't

20 invade those communications, I'm going to let her answer that.

21 That's my instruction.

22 MR. FREEMAN: Mr. Sweeten, I am going to ask you

23 to withdraw your objection on the basis that Texas did not enact

24 the Federal Voting Rights Act of 1965 and that this question has

25 absolutely nothing to do with this state legislative privilege.

<p style="text-align: right;">169</p> <p>1 Now, you've asserted this privilege over and over and over 2 again, but there has to be a line, and this is that line. 3 Please withdraw your objection. 4 MR. SWEETEN: Mr. Freeman, I understand what 5 you're suggesting. But you nor I have a full understanding of 6 communications that she's had with the specific individuals that 7 would be privileged. Okay? If any part of your question 8 invades communications that she's had or reveals thoughts, 9 mental impressions or opinions about legislation, then that 10 would be privileged. To the extent it does not, I am allowing 11 her to answer that question. So I will not withdraw my 12 objection. I will instruct her as I have. 13 Go ahead. You can answer. 14 MR. FREEMAN: Representative Harless -- why don't 15 we have the court reporter read back the question, just so you 16 have it clear. 17 THE REPORTER: Question: "What do you believe is 18 the purpose of the Voting Rights Act?" 19 A. I learned about the Voting Rights Act in 8th grade. 20 And I know it was done in 1965. And I know there's Section 2 21 and Section 5. And we're here on Section 5, part of the Voting 22 Rights Act. And most of my discussions about the Voting Rights 23 Act and education process came after I started doing work on 24 S.B. 14, which I would assume that that would fall under 25 privilege.</p>	<p style="text-align: right;">171</p> <p>1 clarify the question by participate, what you're specifically 2 asking. 3 MR. FREEMAN: Sure. 4 Q. First, did you provide any -- well, first off, did you 5 understand the question? 6 A. I am not sure I did. 7 Q. Okay. Did you provide any information to the 8 Department of Justice during preclearance process? 9 A. I did a phone interview. 10 Q. And did you provide any additional information to the 11 State of Texas as part of the preclearance process? 12 A. My staff may have. 13 Q. You did not personally? 14 A. All my files were in Austin and my staff may have 15 provided. 16 Q. Okay. Did you participate in the decision to sue the 17 attorney general and initiate this case? 18 A. I was never asked. 19 Q. Okay. Did you participate in the drafting of the 20 complaint in this case and the allegations that are at issue in 21 this case? 22 A. Our staff -- my staff -- 23 MR. SWEETEN: Hold on a minute. I am going to 24 object as to the attorney/client privilege. Our office 25 represents Representative Harless. So any communication that</p>
<p style="text-align: right;">170</p> <p>1 Q. Do you believe that the Voting Rights Act is necessary 2 in 2012? 3 A. I'm not sure how to answer that. 4 Q. Do you believe that the Voting Rights Act enforces 5 important principles in 2012? 6 A. I don't know how to answer that. 7 Q. I would ask for a yes or no answer as to whether the 8 Voting Rights Act enforces principles to the extent that you 9 understand the principles that the Federal Voting Rights Act of 10 1965 enforces? 11 A. In 2012? 12 Q. In 2012. 13 MR. SWEETEN: You're asking her for her opinion 14 about the Voting Rights Act? Am I clear on that? 15 MR. FREEMAN: That's correct. 16 MR. SWEETEN: I'm going to object to relevance as 17 to that question. I think also it has been asked and answered. 18 She's attempted to answer that. And she does not have to answer 19 a yes or no. She can say she doesn't know. 20 A. And that's what I've answered. I don't know what the 21 relevance is in 2012. 22 Q. Okay. Did you participate in Texas' submission of 23 S.B. 14 for administrative preclearance, including responses to 24 requests for more information? 25 MR. SWEETEN: Hold on a minute. When -- can you</p>	<p style="text-align: right;">172</p> <p>1 we've had with Representative Harless would be privileged under 2 the attorney/client privilege. 3 Q. Did you provide any non-confidential information as 4 part of participating in the drafting of the complaint in this 5 matter? 6 A. I cannot tell you what my office did. 7 Q. Okay. But you did not personally. 8 A. No. 9 Q. And you're not aware of what your office did? 10 A. No. 11 Q. Okay. That solves the question. Are you familiar 12 with the Federal Help America Vote Act of 2002, or HAVA? 13 A. From the debate on the floor and in committee. 14 Q. Are you familiar with the voter identification 15 requirements of HAVA? 16 A. I can't say off the top of my head I am, no. I'm sure 17 at some point I knew that, but -- 18 Q. Are you aware of HAVA's requirements allowing the use 19 of non-photographic ID in order to identify a voter who has 20 previously registered to vote via mail? 21 A. I don't know that I'm aware of that. 22 Q. Okay. If the Federal Help America Vote Act provided 23 for non-photographic ID in order to establish the identity of a 24 voter, do you think that that would be sufficient for Texas' 25 purposes as well?</p>

<p style="text-align: right;">173</p> <p>1 A. I think the testimony on the floor was that a photo ID 2 helps verify you are who you say you are. 3 MR. SWEETEN: I will object to that as 4 nonresponsive and ask another time. 5 Q. Do you believe that if the Federal Help America Vote 6 Act allows non-photo ID, two forms of non-photo ID to establish 7 identity, that that should be sufficient for Texas as well? 8 MR. SWEETEN: Don't reveal your thoughts, mental 9 impressions or opinions about the legislation, Senate Bill 14 or 10 communications you've had with any of the entities we've listed. 11 Go ahead and answer. 12 A. That's privileged. 13 MR. FREEMAN: Why don't we take a five minute 14 break so that we don't have any similar problems to last time. 15 (Recess from to 3:17 p.m. to 3:33 p.m.) 16 Q. If we can turn to before you became a member of the 17 Texas Legislature very quickly. At any point prior to being 18 sworn in as a member of the Texas legislature, did you hear of 19 any photographic voter identification bill or issue as a 20 political issue in Texas? 21 A. I can't recall that I did. 22 Q. Okay. 23 A. It could be possible, but I can't recall. 24 Q. Are you aware of a photographic voter identification 25 bill that was introduced during your first term, in 2007?</p>	<p style="text-align: right;">175</p> <p>1 Q. Do you know who introduced the bill that had passed 2 from the Senate? 3 A. Senator Fraser. 4 Q. But do you know who introduced it in the House? 5 A. No. 6 Q. Okay. What was your involvement with that bill? 7 A. Just watching it as it proceeded. 8 Q. Did you offer any amendments? 9 MR. SWEETEN: You can confine your testimony to 10 matters of the public record. 11 A. I don't recall if it ever made it to the House floor 12 in 2011 or 2009. 13 Q. Are you aware of the basic provisions of that bill? 14 A. I know it was different than the bill that we passed 15 this session. 16 Q. And are you aware of what any of those differences 17 were? 18 MR. SWEETEN: Are you asking about the bill 19 introduced in 2009 as to what was passed in 2011 and the 20 differences between those? Which duration? I want to make sure 21 that I'm clear. 22 Q. I think I'll ask if the witness understands. Do you 23 understand what my question was? 24 A. Partially. If I recall correctly, which no 25 guarantees, there were more than one voter ID bill filed in the</p>
<p style="text-align: right;">174</p> <p>1 A. Yes. 2 Q. Was any particular bill subject to serious 3 consideration? 4 A. I don't remember. 5 Q. Was a bill passed out of the House? 6 A. I don't recall. It seems like there's been stories 7 that it did, but I don't recall. 8 Q. So is this an issue that, in 2007, would it be fair to 9 say, that you were not greatly involved in? 10 A. Yes. 11 Q. Okay. And just to make sure, did you make any public 12 statements about that bill in 2007, of which you're aware? 13 A. Not that I know of. 14 Q. Do you know if you voted in favor of the bill? 15 A. I don't even know if it made it to the floor. I can't 16 remember. 17 Q. Okay. That's fine. In 2009, are you aware of a 18 photographic voter identification bill that was introduced? 19 This was in your second term, 81st Texas Legislature? 20 A. Right. I know there was a voter ID bill, but I don't 21 know the specifics of it. 22 Q. Do you know when the bill was introduced in the House? 23 A. No. 24 Q. Do you know who introduced it? 25 A. I think there were more than one.</p>	<p style="text-align: right;">176</p> <p>1 2009 session by multiple members of the Texas House. 2 Q. Do you recall what the differences were between the 3 bill that was passed from the Senate in 2009 and was introduced 4 in the Texas House and the bill that was passed from the Senate 5 in 2011 and what was introduced in the Texas House? 6 A. That's where I think the confusion is coming from, 7 because I don't think the bill that was passed in the Senate in 8 2009 actually made it to the House floor. I think it went to 9 committee. And I don't think it got out of committee. And I 10 did not serve on that committee. So I wouldn't have known the 11 provisions of the bill and if it was the same bill and how many 12 bills were filed. 13 Q. Isn't it the case that S.B. 362 was passed out of 14 committee but was chubbed on the floor? 15 A. I don't recall that. 16 Q. Okay. 17 THE REPORTER: I'm not familiar with that term, 18 chubbed. 19 MR. FREEMAN: Chubbed, c-h-u-b-b-e-d. 20 THE REPORTER: Thank you. 21 MR. FREEMAN: It's a term of art that I only 22 recently learned myself. 23 Q. Did you make any public statements concerning S.B. 24 362, the photographic voter identification bill that passed the 25 Senate in 2009?</p>

<p style="text-align: right;">177</p> <p>1 A. Not that I recall.</p> <p>2 Q. Did you send any e-mails concerning that bill?</p> <p>3 A. Not that I recall.</p> <p>4 Q. During the 81st Legislature, 2009, did you sign a</p> <p>5 pledge circulated by the Republican Party of Texas concerning</p> <p>6 voter ID?</p> <p>7 A. Probably. I can't say for sure, but it is possible.</p> <p>8 Q. Do you recall what the principles in that pledge were?</p> <p>9 MR. SWEETEN: I assume this is a public record?</p> <p>10 THE WITNESS: I don't know.</p> <p>11 MR. FREEMAN: If this could be marked as U.S.</p> <p>12 Exhibit 22,</p> <p>13 (Exhibit No. 22 marked)</p> <p>14 MR. SWEETEN: Dan, is this from a web site of</p> <p>15 some kind? Clear Lake GOP it says.</p> <p>16 MR. FREEMAN: That is correct. It is a copy of a</p> <p>17 Republican Party of Texas press release.</p> <p>18 MR. SWEETEN: Okay.</p> <p>19 THE WITNESS: I don't see my name on it. Do you?</p> <p>20 Q. If you look at Page 2, in between Hancock and</p> <p>21 Harper-Brown. It's double sided.</p> <p>22 A. Oh. Sorry. Yes.</p> <p>23 Q. And what were the principles that were in that pledge</p> <p>24 concerning voter ID?</p> <p>25 A. From this press release posted on Clear Lake GOP, it</p>	<p style="text-align: right;">179</p> <p>1 same-day registration based on possession of the documents</p> <p>2 needed to vote under S.B. 14 would have diluted the intent of</p> <p>3 S.B. 14?</p> <p>4 MR. SWEETEN: Same objection as to legislative</p> <p>5 privilege. Don't reveal your mental impressions or thoughts</p> <p>6 about that legislation or communications that we've outlined</p> <p>7 previously.</p> <p>8 THE WITNESS: May I have the question repeated.</p> <p>9 THE REPORTER: Question: "Do you believe that</p> <p>10 including a provision allowing same-day registration based on</p> <p>11 possession of the documents needed to vote under S.B. 14 would</p> <p>12 have diluted the intent of S.B. 14?"</p> <p>13 MR. SWEETEN: Same objection.</p> <p>14 A. It was not a provision of the bill, so I can't</p> <p>15 speculate on that.</p> <p>16 Q. What does it mean to dilute the intent of a bill?</p> <p>17 A. To dilute?</p> <p>18 Q. Dilute the intent.</p> <p>19 A. From this? Are you taking that statement from here?</p> <p>20 Q. I am.</p> <p>21 A. I have no clue what they meant by that.</p> <p>22 Q. Why did you sign this pledge?</p> <p>23 A. I can't answer.</p> <p>24 Q. You don't recall?</p> <p>25 A. I don't.</p>
<p style="text-align: right;">178</p> <p>1 says, "Ensure a valid photo ID is needed to vote. Take effect</p> <p>2 at the next possible uniform election date. Be free of any</p> <p>3 registration requirements such as same day voter registration</p> <p>4 that dilutes the intent of the bill, which is ensuring fair and</p> <p>5 accurate elections. Increase criminal penalties for voter fraud</p> <p>6 and registration."</p> <p>7 Q. Okay. Are you aware of whether Attorney General</p> <p>8 Abbott has dedicated substantial resources over the last decade</p> <p>9 to investigating allegations of voter fraud, in-person voter</p> <p>10 fraud? And you agreed to those principles, correct?</p> <p>11 A. Looks like that.</p> <p>12 Q. How would allowing same-day registration dilute the</p> <p>13 intent of a photographic voter ID bill?</p> <p>14 MR. SWEETEN: Okay. Don't reveal any thoughts or</p> <p>15 mental impressions or opinions about legislation or</p> <p>16 communications that you've had with legislators, legislative</p> <p>17 staff, state agencies, Legislative Council or constituents.</p> <p>18 MR. FREEMAN: I'm asking the representative to</p> <p>19 explain a public statement.</p> <p>20 MR. SWEETEN: If that's the question, then you</p> <p>21 can go ahead and have her explain the public statement.</p> <p>22 A. I'm not sure, in the context of this. Our bill did</p> <p>23 not address same-day registration, the bill that I was involved</p> <p>24 in.</p> <p>25 Q. Do you believe that including a provision allowing</p>	<p style="text-align: right;">180</p> <p>1 Q. Do you recall who urged you to sign the pledge?</p> <p>2 A. I don't.</p> <p>3 Q. Do you recall whether you spoke with Eric Opiela</p> <p>4 concerning this pledge?</p> <p>5 A. I am pretty positive I did not.</p> <p>6 Q. Do you know who Eric Opiela is?</p> <p>7 A. I've seen his name. I don't ever recall having a</p> <p>8 conversation, whether on the phone or in person, with him.</p> <p>9 Q. Was Eric Opiela the chairman of the Republican Party</p> <p>10 of Texas in 2009?</p> <p>11 A. I don't know.</p> <p>12 Q. Do you have any documents concerning any</p> <p>13 communications regarding this pledge?</p> <p>14 A. Not that I know of.</p> <p>15 Q. Okay. When was the last time that you were asked to</p> <p>16 prove your citizenship?</p> <p>17 A. When I got a passport, maybe.</p> <p>18 Q. Do you remember any time before that?</p> <p>19 A. Since I just got a new passport about seven years ago,</p> <p>20 I don't remember since then. I don't know. Maybe when I got my</p> <p>21 concealed handgun license in '96.</p> <p>22 Q. Okay. So once in the last seven years, maybe twice in</p> <p>23 the last 16 years or so. To your knowledge, what documents</p> <p>24 prove that an individual is a U.S. citizen?</p> <p>25 A. For me it would be my birth certificate.</p>



<p style="text-align: right;">185</p> <p>1 submitted for the 82nd Legislature related to photographic voter 2 identification?</p> <p>3 A. It was a bill that was prefiled because it's got a low 4 number. Is it photographic or is it --</p> <p>5 MR. SWEETEN: Just take your time. You can 6 review it.</p> <p>7 A. I think this was the bill that was similar to the bill 8 filed in -- yeah, driver's license. Yeah. It's a photographic 9 identification bill, yes.</p> <p>10 Q. Why did you take a more prominent position on this 11 issue in the 82nd Legislature?</p> <p>12 MR. SWEETEN: Don't reveal any communications 13 that you've had with other legislators, staff, state agencies, 14 constituents or Texas Legislative Council, and don't reveal 15 thoughts, mental impressions or opinions about legislation. To 16 the extent you're not doing so, you can answer that question.</p> <p>17 A. Well, it's difficult to answer that without revealing 18 communications with constituents, but I will say it's an issue 19 that was important to my district.</p> <p>20 Q. Did you have any communications in 2010, prior to 21 filing this bill, concerning photographic voter ID with 22 constituents?</p> <p>23 A. That's privileged.</p> <p>24 MR. SWEETEN: I'm going to object to legislative 25 privilege.</p>	<p style="text-align: right;">187</p> <p>1 supported or opposed the legislation, but just about voter ID.</p> <p>2 MR. SWEETEN: You can testify about whether or 3 not you had contact and with whom the contact was with. Don't 4 go into the subject matter of it.</p> <p>5 A. I had contact with her after the committee hearing 6 on --</p> <p>7 Q. Do you remember the approximate date? 8 A. No. 9 Q. But the hearing was -- do you remember which 10 particular committee hearing? 11 A. The committee hearing where this legislation went 12 through.</p> <p>13 Q. Okay. And this was S.B. 14? 14 A. Yes. 15 Q. So March 2011? 16 A. Yes. 17 Q. Okay. Did you have any conversations with Paul 18 Bettencourt? 19 A. No. 20 Q. Did you have any conversations with any experts, 21 political scientists, concerning photographic voter ID before 22 filing this bill? 23 A. I would have to say probably no. 24 Q. Okay. Did you have any conversations with any 25 experts, including political scientists, at any time after you</p>
<p style="text-align: right;">186</p> <p>1 Q. I'm going to ask not in favor or opposed, so I'm not 2 going to ask the position, but I want to ask as a matter of 3 subject matter whether you had any such conversations. And I 4 think that --</p> <p>5 MR. SWEETEN: You can answer that question. You 6 can identify as to the subject matter that he's saying. You can 7 identify whether you had constituent communications and the form 8 and the approximate date, if you're able to.</p> <p>9 A. Yes.</p> <p>10 Q. Did you have -- did you speak with anyone from ALEC, 11 the American Legislative Exchange Council?</p> <p>12 A. No.</p> <p>13 Q. Did you speak with anyone from the King Street 14 Patriots?</p> <p>15 A. No.</p> <p>16 Q. Did you speak with anyone from any other Tea Party 17 groups?</p> <p>18 A. No.</p> <p>19 Q. Did you speak with Catherine Engelbrecht?</p> <p>20 A. Prior to this legislation?</p> <p>21 Q. Yes.</p> <p>22 A. No.</p> <p>23 Q. Did you speak with her after this legislation?</p> <p>24 A. That's privileged.</p> <p>25 Q. As a matter -- not as a matter of whether she</p>	<p style="text-align: right;">188</p> <p>1 filed this bill concerning photographic voter ID?</p> <p>2 A. I have concerns that those are privileged. But we 3 were doing due diligence in the legislation, so I am probably 4 sure there were some conversations with experts.</p> <p>5 Q. Just to jump back real quickly to Ms. Engelbrecht, how 6 many times did you speak with her?</p> <p>7 A. Maybe once or twice. 8 Q. Was it on the phone? 9 A. She came by the office after the committee hearing. 10 Q. Okay. And how long was the conversation? 11 A. Ten minutes. 12 Q. Okay. Did you have any conversations -- excuse me. 13 Who are the experts who you had conversations with? 14 A. I can't recall. I don't know for sure that I did. 15 Q. Did you ever speak with an individual named Hans von 16 Spakovsky? 17 A. No, I didn't. 18 Q. Are you aware of any conversations that occurred with 19 Mr. Von Spakovsky? 20 A. I think my chief of staff may have, but I don't know 21 for sure. 22 Q. Okay. That's fine. Did you ever have any 23 conversations with George Hammerline? 24 A. Yes. 25 Q. When did that occur?</p>

<p style="text-align: right;">189</p> <p>1 A. Probably after -- probably after they announced that I</p> <p>2 would be carrying the bill in the House.</p> <p>3 Q. And who is George Hammerline?</p> <p>4 A. He's someone who works for one of the government</p> <p>5 agencies in Harris County. I can't tell you which one. He used</p> <p>6 to work with Paul Bettencourt before Bettencourt left office.</p> <p>7 Q. Okay. Did you speak with him in person?</p> <p>8 A. He came by the office.</p> <p>9 Q. About how long was the conversation or conversations?</p> <p>10 A. Longer than I wanted. Maybe five, ten minutes.</p> <p>11 Q. Okay. Did you ever have any conversations with any</p> <p>12 minority groups concerning photographic voter ID?</p> <p>13 A. I can't tell you for sure, but I know that after it</p> <p>14 was announced that we would carry the legislation, there were a</p> <p>15 number of groups that came back to visit about --</p> <p>16 Q. Do you recall any of the names of those groups?</p> <p>17 A. It seems like League of Women Voters was probably one,</p> <p>18 but I can't recall all of them. And I didn't meet with them.</p> <p>19 Q. Who did?</p> <p>20 A. I would -- I don't know if one of the interns did,</p> <p>21 Julie or Colby. I'm not sure.</p> <p>22 Q. Did you make any changes to either your proposed bill,</p> <p>23 H.B. 112 or S.B. 14 as a result of concerns expressed by these</p> <p>24 groups?</p> <p>25 MR. SWEETEN: Hold on a minute. Don't reveal any</p>	<p style="text-align: right;">191</p> <p>1 Q. Any of the speaker's staff?</p> <p>2 MR. SWEETEN: Same instruction, same objection.</p> <p>3 A. Privileged.</p> <p>4 Q. Lt. Governor Dewhurst?</p> <p>5 MR. SWEETEN: Same instruction, same objection.</p> <p>6 A. Privileged.</p> <p>7 Q. Any of Lt. Governor Dewhurst's staff?</p> <p>8 MR. SWEETEN: Same objection, same instruction.</p> <p>9 A. Privileged.</p> <p>10 Q. Senator Fraser?</p> <p>11 MR. SWEETEN: Same objection, same instruction.</p> <p>12 A. Privileged.</p> <p>13 Q. Senate Fraser's staff?</p> <p>14 MR. SWEETEN: Same objection.</p> <p>15 A. Privileged.</p> <p>16 Q. Governor Perry?</p> <p>17 MR. SWEETEN: Same objection and instruction.</p> <p>18 A. Privileged.</p> <p>19 Q. Governor Perry's staff?</p> <p>20 MR. SWEETEN: Same objection and instruction.</p> <p>21 Q. Lobbyists?</p> <p>22 MR. SWEETEN: Same objection and instruction.</p> <p>23 THE WITNESS: May I have a minute?</p> <p>24 MR. SWEETEN: Sure.</p> <p>25 THE WITNESS: Thank you.</p>
<p style="text-align: right;">190</p> <p>1 thoughts, mental impressions or opinions about legislation or</p> <p>2 conversations or the substance of conversations with any</p> <p>3 legislator, staff, state agency, TLC or constituents.</p> <p>4 A. That is privileged.</p> <p>5 Q. Okay. Who drafted the bill that you have in front of</p> <p>6 you, H.B. 112?</p> <p>7 A. Leg Council.</p> <p>8 Q. What input did you provide?</p> <p>9 MR. SWEETEN: Don't talk about the specific</p> <p>10 substance of any input or communications you've had with TLC.</p> <p>11 A. None.</p> <p>12 Q. Who else provided input concerning the substance of</p> <p>13 the bill?</p> <p>14 MR. SWEETEN: Again, I think that you're asking</p> <p>15 her to provide mental impressions, opinions about legislation or</p> <p>16 conversations that she's had with the individuals or entities</p> <p>17 named. So I'm going to instruct you not to answer based on</p> <p>18 legislative privilege.</p> <p>19 Q. If you can indicate if you're not answering on the</p> <p>20 basis of privilege, that would be great.</p> <p>21 A. Not answering based on privilege.</p> <p>22 Q. Okay. Thank you. Are you aware of whether the</p> <p>23 speaker provided input concerning the substance of H.B. 112?</p> <p>24 MR. SWEETEN: Same objection, same instruction.</p> <p>25 A. Privileged.</p>	<p style="text-align: right;">192</p> <p>1 (Brief off-record discussion)</p> <p>2 MR. FREEMAN: I believe this is when you say</p> <p>3 "privileged".</p> <p>4 A. Privileged.</p> <p>5 Q. Thank you. While you were drafting H.B. 112, did you</p> <p>6 speak with the Department of Public Safety?</p> <p>7 MR. SWEETEN: You can testify about the fact of</p> <p>8 communication. You can't testify about the substance. It's</p> <p>9 legislatively privileged.</p> <p>10 A. I didn't draft House Bill 112.</p> <p>11 Q. While your staff were drafting House Bill 112, are you</p> <p>12 aware of whether they spoke with the Department of Public</p> <p>13 Safety?</p> <p>14 A. To clarify that as well, my staff doesn't draft the</p> <p>15 bill. We present to Leg Council information, and they draft the</p> <p>16 bill.</p> <p>17 Q. So let me clarify based on that. Thank you. While</p> <p>18 your staff were providing the substance of the bill to Leg</p> <p>19 Council for drafting purposes, while the drafting process was</p> <p>20 ongoing --</p> <p>21 A. Sorry.</p> <p>22 Q. -- did they -- accuracy is what we do.</p> <p>23 A. I don't want to get down the road with this and --</p> <p>24 Q. While your staff was providing information to Leg</p> <p>25 Council and Leg Council was drafting H.B. 112, did you or anyone</p>

<p style="text-align: right;">193</p> <p>1 in your staff speak with the Secretary of State's office?</p> <p>2 MR. SWEETEN: You can testify about the fact of</p> <p>3 communication.</p> <p>4 A. I did not. I can't answer whether my staff did.</p> <p>5 Q. Did you conduct or did you instruct anyone to conduct</p> <p>6 an analysis of the impact that H.B. 112 would have on minority</p> <p>7 voters?</p> <p>8 MR. SWEETEN: Don't answer that. That's</p> <p>9 privileged. Reveals thoughts, mental impressions about</p> <p>10 legislation.</p> <p>11 A. Privileged.</p> <p>12 Q. Why not?</p> <p>13 MR. SWEETEN: Same objection and instruction.</p> <p>14 A. Privileged.</p> <p>15 Q. Now, you've testified that your staff provided</p> <p>16 instructions to Legislative Council concerning the substance of</p> <p>17 the bill, but who made decisions concerning what components</p> <p>18 would go into the bill?</p> <p>19 A. Into?</p> <p>20 Q. Into H.B. 112?</p> <p>21 MR. SWEETEN: That's the same instruction as the</p> <p>22 legislative privilege and objection based on that. You can</p> <p>23 answer to the extent it doesn't reveal legislatively privileged</p> <p>24 information.</p> <p>25 A. I am not sure. I think it's a companion. It's</p>	<p style="text-align: right;">195</p> <p>1 Under typical legislative sessions, bills are referred to</p> <p>2 committee. But close to the end of the session there may be 10</p> <p>3 to 20,000 bills filed and there may not be time to refer them to</p> <p>4 committee.</p> <p>5 Q. But an early bill, a prefiled bill like H.B. 112, that</p> <p>6 would be referred to some committee, right?</p> <p>7 A. It's my understanding it should be.</p> <p>8 Q. And so insofar as only one bill was referred to the</p> <p>9 Select Committee on Voter Identification and Voter Fraud, that</p> <p>10 was the bill that was going to move in terms of any voter ID</p> <p>11 bill that was filed in the last session, right?</p> <p>12 A. I think that it would be easy to make that point.</p> <p>13 Q. Okay.</p> <p>14 A. I can't guarantee that, but I think that would make</p> <p>15 sense.</p> <p>16 Q. Okay. What were the basic provisions of H.B. 112? Do</p> <p>17 you know?</p> <p>18 A. Voter education, acceptable identification outside of</p> <p>19 a polling place, an election officer at a polling place, either</p> <p>20 one form of identification listed on section. So it looks like</p> <p>21 it's got the approved forms of IDs that we talked about and</p> <p>22 maybe some additional forms.</p> <p>23 Q. Okay. Can we -- can you take a quick look at Section</p> <p>24 6(b) and tell me whether this allows an individual to present</p> <p>25 either one form of ID listed in one list or two forms from</p>
<p style="text-align: right;">194</p> <p>1 similar to the bill that was filed the previous session.</p> <p>2 Q. Did you provide any instructions specifically to your</p> <p>3 staff concerning what should and should not appear in H.B. 112?</p> <p>4 MR. SWEETEN: Don't reveal communications between</p> <p>5 yourself and legislative staff. It's legislatively privileged.</p> <p>6 MR. FREEMAN: I'm going to try and frame this in</p> <p>7 a way that we can just have this be a subject matter question,</p> <p>8 Mr. Sweeten.</p> <p>9 MR. SWEETEN: Sure. I'm fine with that.</p> <p>10 Q. Were there any communications between you and your</p> <p>11 stuff on the subject of what should and should not be included</p> <p>12 in H.B. 112?</p> <p>13 MR. SWEETEN: You can answer that.</p> <p>14 A. No.</p> <p>15 Q. Okay. Was H.B. 112 ever referred to the Select</p> <p>16 Committee on Voter Identification and Voter Fraud?</p> <p>17 A. I can't remember.</p> <p>18 Q. Isn't it the case that we earlier determined that the</p> <p>19 only bill referred to --</p> <p>20 A. I think that's what you said from that sheet. I could</p> <p>21 look up the bill number and see where it went, where it was</p> <p>22 referred to, but I can't remember where it was referred to.</p> <p>23 Q. Are all bills referred to some committee after they're</p> <p>24 filed?</p> <p>25 A. I'm not sure of the procedure, if all bills are.</p>	<p style="text-align: right;">196</p> <p>1 another list?</p> <p>2 A. It does.</p> <p>3 Q. Can you take a look at Section 11.</p> <p>4 A. Just one second. I got to take my contacts out,</p> <p>5 because I can't look anymore.</p> <p>6 Q. Do you want us to go off?</p> <p>7 A. No. It will be fine. They're disposable, but after</p> <p>8 awhile they blur. Section 11?</p> <p>9 Q. Yes. And if you can look at Section 11(a).</p> <p>10 A. This is the bill?</p> <p>11 Q. I'm sorry. It's actually Section 10. Its on Page 5,</p> <p>12 where it says, "Documentation of Proof of Identification"?</p> <p>13 A. Yes. This is the --</p> <p>14 Q. What are the forms of photo identification that are</p> <p>15 acceptable under your bill?</p> <p>16 A. Under which section?</p> <p>17 Q. It's going to be Section 10, which modifies section</p> <p>18 63.0101 of the Election Code, begins, "The following</p> <p>19 documentation is an acceptable form of photo identification."</p> <p>20 Bottom of Page 5.</p> <p>21 A. Expired or expired no earlier than two years before</p> <p>22 the date of presentation.</p> <p>23 Q. And is that a driver's license or a Texas</p> <p>24 identification card?</p> <p>25 A. It says issued to a person by DPS, so, yes.</p>

<p style="text-align: right;">197</p> <p>1 Q. Okay.</p> <p>2 A. United States military ID card that contains the</p> <p>3 person's photograph.</p> <p>4 Q. Uh-huh.</p> <p>5 A. United States citizen certificate issued to person</p> <p>6 that contains the person's photograph. License to carry</p> <p>7 concealed handgun issued by the Department of Public Safety.</p> <p>8 Q. Does it allow passport?</p> <p>9 A. Valid ID card that contains persons issued by federal</p> <p>10 government. Agency, institution, political subdivision of the</p> <p>11 state.</p> <p>12 Q. And Representative Harless, did you skip Subsection 4.</p> <p>13 Do you see where it says United States passport?</p> <p>14 A. Yes, but that's not underlined or crossed out so --</p> <p>15 Q. But it is in the list, isn't it?</p> <p>16 A. Yes.</p> <p>17 Q. So those are all forms of photographic identification?</p> <p>18 A. Uh-huh.</p> <p>19 Q. And the bill also allowed two forms of</p> <p>20 non-photographic identification, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And what are the forms of non-photographic</p> <p>23 identification, if you can just -- well, I'll list them quickly.</p> <p>24 Did it allow voter registration certificate?</p> <p>25 A. Uh-huh.</p>	<p style="text-align: right;">199</p> <p>1 Q. Okay. Did this conform, H.B. 112, to the pledge that</p> <p>2 you made in 2009?</p> <p>3 A. Probably not.</p> <p>4 Q. Why the difference?</p> <p>5 A. What is the difference --</p> <p>6 MR. SWEETEN: Well, hold on. I want to make sure</p> <p>7 that you're clear. Don't reveal thoughts, mental impressions or</p> <p>8 opinions about legislation. I don't want you to reveal</p> <p>9 communications. You're free to include matters of public</p> <p>10 record, but I caution you on that privilege issue.</p> <p>11 A. The question again.</p> <p>12 Q. Why the difference between the bill you introduced</p> <p>13 that allows non-photo ID and the pledge that you made in 2009</p> <p>14 concerning an identification bill that would only allow photo</p> <p>15 ID?</p> <p>16 MR. SWEETEN: I can't interpret that question</p> <p>17 other than to ask for her to reveal her mental impressions or</p> <p>18 opinions about legislation. I think that is squarely within the</p> <p>19 order regarding this privilege. So I'm going to globally</p> <p>20 instruct her not to answer that question.</p> <p>21 A. Privileged.</p> <p>22 Q. Thank you. Why did you introduce a bill that allowed</p> <p>23 non-photo ID in terms of a photo ID bill?</p> <p>24 MR. SWEETEN: Same objection. Instruction not to</p> <p>25 answer.</p>
<p style="text-align: right;">198</p> <p>1 Q. Official mail addressed to the person by name from a</p> <p>2 government entity?</p> <p>3 A. Yes.</p> <p>4 Q. Certified copy of a birth certificate?</p> <p>5 A. Yes.</p> <p>6 Q. Citizenship papers without a photograph?</p> <p>7 A. Yes. It doesn't say without. It says citizenship</p> <p>8 papers.</p> <p>9 Q. Okay. An original or certified copy of a marriage</p> <p>10 license or divorce decree?</p> <p>11 A. Yes.</p> <p>12 Q. Court records of adoption, name change, or sex change?</p> <p>13 A. Yes.</p> <p>14 Q. An identification card issued by a government entity</p> <p>15 of the state or the United States for the purpose of obtaining</p> <p>16 benefits?</p> <p>17 A. Yes.</p> <p>18 Q. A temporary driving permit?</p> <p>19 A. Yes.</p> <p>20 Q. Pilot's license?</p> <p>21 A. Yes.</p> <p>22 Q. A library card?</p> <p>23 A. Yes.</p> <p>24 Q. A hunting or fishing license?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">200</p> <p>1 Q. Are you not answering on the basis of privilege?</p> <p>2 MR. SWEETEN: Let me finish. It would reveal</p> <p>3 your mental impressions, opinions about legislation.</p> <p>4 A. Privileged.</p> <p>5 Q. Okay. Is it your understanding that a driver's</p> <p>6 license or Texas identification card that is expired provides</p> <p>7 proof of the identity of the individual who holds it?</p> <p>8 MR. SWEETEN: Are you asking her as a factual</p> <p>9 matter?</p> <p>10 MR. FREEMAN: Yes.</p> <p>11 MR. SWEETEN: You can answer just as to what you</p> <p>12 know.</p> <p>13 A. An ID or a driver's license issued by the Department</p> <p>14 that's expired provide ID of that person, who they are.</p> <p>15 Q. Okay.</p> <p>16 A. I think in our legislation we put a provision --</p> <p>17 MR. SWEETEN: Let's go ahead and just answer the</p> <p>18 question he's asked. Okay?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Does the identification card cease to prove the</p> <p>21 identity of the person after six months after it's expired?</p> <p>22 A. No.</p> <p>23 Q. Does it cease to prove the identity of the person two</p> <p>24 years after it's expired?</p> <p>25 A. No.</p>

<p style="text-align: right;">201</p> <p>1 Q. Are you aware of how the Department of Public Safety</p> <p>2 maintains records about driver's license expiration?</p> <p>3 A. No.</p> <p>4 Q. Are you aware of whether they maintain only a notation</p> <p>5 that it's less than two years expired or more than two years</p> <p>6 expired?</p> <p>7 A. I'm not aware.</p> <p>8 Q. Okay. Does a valid identification card that contains</p> <p>9 a person's photograph and is issued by an agency or institution</p> <p>10 of the federal government establish an individual's identity?</p> <p>11 A. It could possibly.</p> <p>12 Q. How about a valid identification card that contains</p> <p>13 the person's photograph and is issued by an agency, institution</p> <p>14 or political subdivision of the State of Texas?</p> <p>15 A. It could.</p> <p>16 Q. In what ways could it not?</p> <p>17 A. You know, I just have no way of knowing what checks</p> <p>18 and balances that that political subdivision goes through</p> <p>19 issuing an ID. I may can go up and say, "I'm John Smith," and</p> <p>20 you issue me an ID.</p> <p>21 Q. Why did you include valid identification cards issued</p> <p>22 by political subdivisions of the state in H.B. 112?</p> <p>23 MR. SWEETEN: I'm going to object. I think that</p> <p>24 asks for legislatively privileged information, asks her to</p> <p>25 reveal thoughts, mental impressions, opinions about legislation</p>	<p style="text-align: right;">203</p> <p>1 valid identification cards issued by agencies or institutions of</p> <p>2 the federal government in H.B. 112?</p> <p>3 A. Privileged.</p> <p>4 MR. SWEETEN: Objection, calls for legislatively</p> <p>5 privileged information, asks her to reveal thoughts, mental</p> <p>6 impressions or opinions about legislation.</p> <p>7 MR. FREEMAN: I would ask that you wait for your</p> <p>8 counsel to finish just so the record is clean.</p> <p>9 A. I should. I'm just trying to speed it up. Sorry.</p> <p>10 I'm old and tired.</p> <p>11 Q. Now, you previously testified that you don't know what</p> <p>12 a citizenship certificate looks like; is that correct?</p> <p>13 A. I don't know that I do.</p> <p>14 Q. Okay.</p> <p>15 A. I may have seen one, but I can't recall.</p> <p>16 Q. And can I ask, so you included among the list of photo</p> <p>17 ID in H.B. 112 the United States citizenship certificate issued</p> <p>18 to the person that contains the person's photograph. And on the</p> <p>19 non-photo list you included just a United States -- or United</p> <p>20 States citizenship papers issued to the person. From that, can</p> <p>21 it be inferred that sometimes citizenship papers have a photo or</p> <p>22 them and sometimes they do not?</p> <p>23 MR. SWEETEN: Don't reveal thoughts, mental</p> <p>24 impressions or opinions about legislation. Okay.</p> <p>25 A. Privileged.</p>
<p style="text-align: right;">202</p> <p>1 why she included something or did not include something, was</p> <p>2 covered by that.</p> <p>3 A. Privileged.</p> <p>4 Q. And why did you say that a valid identification card</p> <p>5 issued by an agency or institution with the federal government</p> <p>6 could establish an identity but not always establish an</p> <p>7 individual's identity?</p> <p>8 MR. SWEETEN: Same objection.</p> <p>9 A. The question one more time? Are you saying --</p> <p>10 Q. I'm not saying why, but I'm asking -- you previously</p> <p>11 testified that a valid identification card that contains the</p> <p>12 person's photograph and is issued by an agency or institution of</p> <p>13 the federal government could establish an individual's identity.</p> <p>14 And I'm asking why only could. Why are you qualifying that</p> <p>15 statement?</p> <p>16 MR. SWEETEN: I think she's answered that.</p> <p>17 MR. FREEMAN: I said that with regard to the</p> <p>18 state. I didn't say that with regard -- with state subdivision,</p> <p>19 not with regard to the fed government.</p> <p>20 MR. SWEETEN: You can answer as to that.</p> <p>21 A. So we're talking specifically about the federal</p> <p>22 government?</p> <p>23 Q. Yes.</p> <p>24 A. I'm not sure how they issue their IDs.</p> <p>25 Q. Okay. And just for the record, why did you include</p>	<p style="text-align: right;">204</p> <p>1 Q. I'm just asking for your knowledge and the logical</p> <p>2 inference that can be made from a bill that you publicly</p> <p>3 submitted for consideration in the Texas Legislature.</p> <p>4 MR. SWEETEN: But you can't do that by asking her</p> <p>5 legislatively privileged information. You're asking her about</p> <p>6 her mental impressions, opinions about why something was or</p> <p>7 wasn't included, what can be inferred based upon the inclusion</p> <p>8 or non-inclusion of certain information. I think you're asking</p> <p>9 for privileged information.</p> <p>10 Q. To the extent that you lack knowledge of the answer to</p> <p>11 that question, whether it sometimes has a photo and sometimes</p> <p>12 does not, that's a fine answer as well.</p> <p>13 A. I don't know if there are certificates without photos.</p> <p>14 I don't know.</p> <p>15 Q. Okay. Why would H.B. 112 solve any problems related</p> <p>16 to in-person voter fraud in comparison to current Texas law?</p> <p>17 MR. SWEETEN: I'm going to object. I think</p> <p>18 you're asking her for her mental impressions, opinions about</p> <p>19 legislation. I think that falls squarely within the legislative</p> <p>20 privilege.</p> <p>21 A. Privileged.</p> <p>22 Q. Did you make any public statements concerning H.B.</p> <p>23 112?</p> <p>24 A. Not that I remember. Could possibly, but.</p> <p>25 Q. You don't recall?</p>

<p style="text-align: right;">205</p> <p>1 A. No.</p> <p>2 Q. Do you recall if it was ever mentioned in your</p> <p>3 constituent newsletter?</p> <p>4 A. Possibly as the bills that I filed.</p> <p>5 Q. Anything more than just a list of the bills that you</p> <p>6 filed?</p> <p>7 A. I don't know. We do those weekly during session.</p> <p>8 Q. Okay. Do you keep all of your constituent newsletters</p> <p>9 maintained in a file somewhere?</p> <p>10 A. I don't.</p> <p>11 Q. Do you know if your staff does?</p> <p>12 A. I don't know if they do.</p> <p>13 Q. Would you like to take a break or can we keep going?</p> <p>14 A. Keep going until my --</p> <p>15 MR. SWEETEN: She's got that 4:40.</p> <p>16 Q. 20 minutes. Sounds good.</p> <p>17 A. It's 20 or 30.</p> <p>18 MR. ROSENBERG: What happens at 4:40?</p> <p>19 MR. SWEETEN: She has a phone call that will take</p> <p>20 15 minutes. It's physician related.</p> <p>21 Q. What were the basic provisions of S.B. 14? And if</p> <p>22 you'd like, I'm happy to give you a copy of U.S. Exhibit 5.</p> <p>23 A. Photo ID from prescribed list, including driver's</p> <p>24 license, ID card, concealed handgun, citizenship paper with a</p> <p>25 photo on it, U.S. military ID. It also provided for extensive</p>	<p style="text-align: right;">207</p> <p>1 Exhibit 4.</p> <p>2 A. Expired or that expired no later than two years before</p> <p>3 the date.</p> <p>4 Q. But with regard to passports?</p> <p>5 A. Passports wasn't a new section in the bill.</p> <p>6 Q. But there was no modification to exclude passports</p> <p>7 that were expired by more than 60 days, correct?</p> <p>8 A. Right.</p> <p>9 Q. Okay. Why did S.B. 14 exclude passports that were</p> <p>10 expired by more than 60 days?</p> <p>11 MR. SWEETEN: Don't reveal thoughts, mental</p> <p>12 impressions or opinions about the legislative process or</p> <p>13 discussions you've had with legislators, legislation staff,</p> <p>14 state agencies, TLC or constituents. Refer to matters of the</p> <p>15 public record.</p> <p>16 A. Privileged.</p> <p>17 Q. Okay. Were you involved in the drafting process for</p> <p>18 S.B. 14?</p> <p>19 A. No.</p> <p>20 MR. SWEETEN: I think that's been asked and</p> <p>21 answered.</p> <p>22 Q. Did anyone in the media ask you questions concerning</p> <p>23 changes between H.B. 112 and S.B. 14?</p> <p>24 A. Could possibly. I don't recall.</p> <p>25 Q. Okay. Why did you shift your support in four months</p>
<p style="text-align: right;">206</p> <p>1 training or training. I shouldn't say -- training on the new</p> <p>2 requirements under S.B. 14. It provides for a free election ID</p> <p>3 certificate, voter certificate. It provides for, off the top of</p> <p>4 my head, a provisional ballot, that notice be placed outside of</p> <p>5 the polling place, provision that the names that are similar be</p> <p>6 accepted, rights to cast provisional ballot, requirements for</p> <p>7 identification prescribed by Subsection B, that they do not</p> <p>8 apply to a person who is disabled and presents the voter</p> <p>9 registration certificate containing the indication described in</p> <p>10 Section 15.01, and increased penalties for attempting to vote</p> <p>11 with someone else's ID and actually voting.</p> <p>12 Q. Isn't it the case that S.B. 14 limited the use of</p> <p>13 expired driver's license or personal identification cards to</p> <p>14 those that are expired up to 60 days as opposed to two years in</p> <p>15 your bill?</p> <p>16 A. I think that's correct in S.B. 14, up to 60 days.</p> <p>17 Q. Why the difference?</p> <p>18 MR. SWEETEN: I'm going to object. That calls</p> <p>19 for legislatively privileged information.</p> <p>20 A. It's privileged.</p> <p>21 Q. And isn't it correct that S.B. 14 limits the use of</p> <p>22 passports to those that are expired up to 60 days?</p> <p>23 A. That is correct.</p> <p>24 Q. And isn't it the case that H.B. 112 put no limitation</p> <p>25 concerning expiration on U.S. passports? It's on Page 6 of</p>	<p style="text-align: right;">208</p> <p>1 from a bill that allowed individuals to establish their identity</p> <p>2 via non-photographic ID to a bill that required individuals to</p> <p>3 present one of a few articulated forms of photo ID?</p> <p>4 MR. SWEETEN: I'm going to object based on</p> <p>5 legislative privilege. You're asking her to reveal thoughts,</p> <p>6 mental impressions, opinions about legislation and also</p> <p>7 communications she's had. So I'm going to instruct her not to</p> <p>8 answer based on that.</p> <p>9 A. It was privileged.</p> <p>10 Q. Are you aware of any records that are maintained of</p> <p>11 driver's licenses that are expired by more than 60 days but less</p> <p>12 than than two years?</p> <p>13 A. I'm not. You asked that earlier. I'm not aware.</p> <p>14 Q. I'm sorry.</p> <p>15 A. It's okay.</p> <p>16 Q. Are you aware of what forms of ID are permissible</p> <p>17 under the Georgia photo ID law? And I'm happy to put them in</p> <p>18 front of you if that makes it easier.</p> <p>19 A. We talked about it earlier.</p> <p>20 Q. This is U.S. Exhibit 6. Just, if you can look through</p> <p>21 now that you've just recently looked at S.B. 14 and tell me</p> <p>22 what's in the Georgia law and not in S.B. 14?</p> <p>23 A. And not? A card issued by the branch, department,</p> <p>24 agency or identity of the State of Georgia or other state or of</p> <p>25 the United States authorized by law to issue personal</p>



<p style="text-align: right;">209</p> <p>1 identification and provide such identification, a valid U.S.</p> <p>2 passport, which I assume that means not expired, a valid</p> <p>3 employee identification card, obtained photograph of elector</p> <p>4 issued by a branch and department agency or entity of the United</p> <p>5 States Government, the state or any county, municipal board,</p> <p>6 authority or other entity of the State. It says a valid</p> <p>7 military ID. So that's not an expired. And a valid tribal ID</p> <p>8 card.</p> <p>9 Q. And doesn't it also not have an expiration limitation</p> <p>10 on driver's licenses in Subsection 1?</p> <p>11 A. I'm not sure. I guess you're reading this. It was my</p> <p>12 understanding that Georgia's was two -- or not past the last</p> <p>13 election cycle, but I don't recall.</p> <p>14 Q. Just to clarify my question. Does it say that -- does</p> <p>15 it limit use of Georgia driver's licenses to those that are</p> <p>16 unexpired or less than 60 days expired?</p> <p>17 A. I don't think it's specific here, unless you see it</p> <p>18 and I don't. It says a Georgia driver's license which was</p> <p>19 properly issued by the appropriate state agency. The difference</p> <p>20 between that and the ID card and the passport, it says valid. I</p> <p>21 don't know what they're reading into the difference of that is.</p> <p>22 Q. Okay. So would it be fair to say that several of</p> <p>23 these are different from S.B. 14? Nearly all of them?</p> <p>24 A. I wouldn't use the word different, but they're</p> <p>25 similar.</p>	<p style="text-align: right;">211</p> <p>1 A. You're reading it, so I assume that it is.</p> <p>2 Q. If you'd like me to -- it's on Page 97 of that</p> <p>3 transcript right in front of you, which is Exhibit?</p> <p>4 A. 11. I don't have it.</p> <p>5 Q. It is Exhibit 18. Look at Page 97, onto Page 98.</p> <p>6 A. "Similar to the case, the legislation that was passed</p> <p>7 in Indiana, upheld by the U.S. Constitution" -- should have been</p> <p>8 Supreme Court. "It is similar to the bill that was filed in</p> <p>9 Georgia that was approved by the Department of Justice." Yes.</p> <p>10 Q. Now, you've testified earlier that these bills had a</p> <p>11 variety of differences, correct?</p> <p>12 A. Was that my word? I can't remember.</p> <p>13 Q. Not verbatim, but you just testified that there were a</p> <p>14 number of differences in terms of the acceptable ID in Georgia</p> <p>15 versus S.B. 14, correct?</p> <p>16 A. I think you were asking me specifically, and I said --</p> <p>17 when you read the statement, I said that's different and the</p> <p>18 tribal ID was different. The others are similar.</p> <p>19 Q. Do you still maintain the position that you</p> <p>20 articulated on the floor, that the reason for passing the bill</p> <p>21 was that the legislation is similar to what was passed in</p> <p>22 Indiana and what was passed in Georgia?</p> <p>23 A. My testimony on the floor and during the debate was</p> <p>24 that it was similar.</p> <p>25 Q. And do you still maintain that position today?</p>
<p style="text-align: right;">210</p> <p>1 Q. Okay. Well, the driver's license provision doesn't</p> <p>2 limit the use of expired IDs, correct?</p> <p>3 A. It says a Georgia driver's license which was issued,</p> <p>4 and the difference between the other one says a valid Georgia</p> <p>5 voter identification card issued or a valid U.S. passport. I'm</p> <p>6 not sure what they are meaning by valid.</p> <p>7 Q. Okay.</p> <p>8 A. Does that mean current? I don't know. Why wouldn't</p> <p>9 they say current? I just can't answer.</p> <p>10 Q. Okay. But an employee identification card issued by a</p> <p>11 state --</p> <p>12 A. That is different.</p> <p>13 Q. It's easier if you don't talk over me.</p> <p>14 A. Sorry.</p> <p>15 Q. No problem. And a tribal identification card is not</p> <p>16 included in S.B. 14, correct?</p> <p>17 A. That is different.</p> <p>18 Q. Okay. When Representative Veasey asked you on the</p> <p>19 floor of the Texas House, "Why should we pass such a stringent</p> <p>20 bill and stringent law based on rumor and innuendo," isn't it</p> <p>21 the case what you responded, "S.B. 14 is similar to the case,</p> <p>22 the legislation that was passed in Indiana, that was upheld by</p> <p>23 the U.S. Constitution, is similar to the bill that was filed in</p> <p>24 Georgia that was approved by the Department of Justice"? Isn't</p> <p>25 that correct?</p>	<p style="text-align: right;">212</p> <p>1 A. I still support what I said on the floor.</p> <p>2 Q. How is the legality of S.B. 14 responsive to</p> <p>3 Representative Veasey's question concerning the need for the</p> <p>4 law?</p> <p>5 A. The legality?</p> <p>6 Q. So Representative Veasey asked -- let me rephrase.</p> <p>7 Representative Veasey asked, "Why should we pass such</p> <p>8 a stringent bill and stringent law based on rumor and innuendo?"</p> <p>9 He is asking what is the need for this bill. And then you</p> <p>10 responded, S.B. 14 is similar to the legislation in Indiana and</p> <p>11 in Georgia, Indiana, having been, you asserted, upheld by the</p> <p>12 U.S. Constitution and Georgia being approved by the Department</p> <p>13 of Justice. So that was talking about how those bills were</p> <p>14 considered legal. How was your response that S.B. 14 was legal</p> <p>15 responsive to Representative Veasey's question about why the</p> <p>16 legislation was needed?</p> <p>17 A. All I can tell you is what I said here.</p> <p>18 Q. But why did you respond to a question about the need</p> <p>19 for the bill with an answer saying that the bill would not</p> <p>20 violate the U.S. Constitution?</p> <p>21 A. I can't remember exactly at what point this was, but I</p> <p>22 think this was about the debate on an amendment and I was</p> <p>23 responding to the amendment.</p> <p>24 MR. FREEMAN: I'm going to object to that as</p> <p>25 nonresponsive and ask you to review the transcript a little bit</p>

<p style="text-align: right;">213</p> <p>1 further back if that provides some context and assistance for</p> <p>2 you to be able to answer the question.</p> <p>3 A. It was in regard to his provision that would gut the</p> <p>4 bill, is what my testimony is. And then he continued with his</p> <p>5 questioning that had nothing to do with his amendment, and I</p> <p>6 went back to the purpose of his amendment, which the purpose of</p> <p>7 the bill was that it was similar to Indiana and the U.S.</p> <p>8 Constitution, and his amendment was trying to gut the provision</p> <p>9 of the bill. And I don't know how to answer that any other way.</p> <p>10 MR. FREEMAN: I'm going to object to that as</p> <p>11 nonresponsive as well, but we'll move on.</p> <p>12 THE WITNESS: Can we take a break?</p> <p>13 MR. FREEMAN: Sure.</p> <p>14 (Recess from 4:36 p.m. to 5:01 p.m.)</p> <p>15 Q. Other than modeling bills on Indiana and Georgia, what</p> <p>16 did you do to ensure that S.B. 14 was constitutional?</p> <p>17 MR. SWEETEN: I think to some extent that the</p> <p>18 question is asking her to reveal thoughts, mental impressions,</p> <p>19 opinions about the legislation or conversations she's had with</p> <p>20 legislator's staff, state agencies, Leg Council or constituents.</p> <p>21 So I think that you're asking about the process and how she came</p> <p>22 up with the bill. I think that's squarely within the</p> <p>23 legislative privilege.</p> <p>24 A. Privileged.</p> <p>25 Q. Did you make any public statements concerning your</p>	<p style="text-align: right;">215</p> <p>1 take it into account.</p> <p>2 MR. SWEETEN: Okay.</p> <p>3 A. The public statements were that the legislation was</p> <p>4 drafted similar to those states. I never said on record that it</p> <p>5 was identical or the exact same piece of legislation, that it</p> <p>6 was similar.</p> <p>7 Q. And that's -- just so I'm clear, was it your belief</p> <p>8 that none of these -- strike that.</p> <p>9 Sitting here today, can you identify any purpose for</p> <p>10 the change from H.B. 112 to HB-14 as to the use of non-photo ID</p> <p>11 what the purpose for that change was?</p> <p>12 MR. SWEETEN: You're asking her thoughts, mental</p> <p>13 impressions or opinions about the legislation, the differences</p> <p>14 between that legislation. It could also implicate</p> <p>15 communications she's had. I believe that's legislatively</p> <p>16 privileged.</p> <p>17 A. It was clearly privileged communications.</p> <p>18 Q. What does the term legislative emergency mean within</p> <p>19 the Texas Legislature?</p> <p>20 A. You would have to ask the governor that. I don't know</p> <p>21 how to define that.</p> <p>22 Q. What does a legislative emergency effectively mean</p> <p>23 within the legislature? What is the effect of the declaration</p> <p>24 of legislative emergency?</p> <p>25 A. It's my understand that the governor can call issues</p>
<p style="text-align: right;">214</p> <p>1 efforts to ensure that S.B. 14 was constitutional?</p> <p>2 A. I don't know if I made public statements about that or</p> <p>3 not.</p> <p>4 Q. Did you make any public statements or statements on</p> <p>5 the record concerning your efforts to ensure that S.B. 14 would</p> <p>6 comply with the Voting Rights Act?</p> <p>7 A. I don't know if I made statements on that or not. I</p> <p>8 recall making statements that I felt comfortable that it would</p> <p>9 comply with Section 5 of the Voting Rights Act.</p> <p>10 Q. And what was the basis for your comfort?</p> <p>11 A. The statements that I said were that we had filed</p> <p>12 legislation that were similar to Georgia, that had been pre-</p> <p>13 cleared in Indiana, that had been upheld by the U.S.</p> <p>14 Constitution, and I think I remember continuing by saying that</p> <p>15 protected the integrity of the election process, it helped deter</p> <p>16 and detect in-person voter fraud, and we provided for -- we</p> <p>17 provided for provisional ballots and free voter certificate</p> <p>18 card.</p> <p>19 Q. And did you take into account the differences between</p> <p>20 S.B. 14 and the Georgia photo ID bill?</p> <p>21 MR. SWEETEN: Are you asking her in her public</p> <p>22 statements or you're asking her did she take it into account in</p> <p>23 her process?</p> <p>24 MR. FREEMAN: I'm asking with regard to the</p> <p>25 public statements that she made, did those public statements</p>	<p style="text-align: right;">216</p> <p>1 that are emergency, that are heard during the first part of the</p> <p>2 legislative session, a priority.</p> <p>3 Q. And if something is not declared a priority, it cannot</p> <p>4 be heard in the beginning of the legislative session; is that</p> <p>5 correct?</p> <p>6 A. There's certain days that it cannot be heard, until</p> <p>7 committees are organized.</p> <p>8 Q. Are there any substantive constraints on what the</p> <p>9 governor may declare to be a legislative emergency?</p> <p>10 A. Not to my knowledge. I don't know.</p> <p>11 Q. Was photographic voter ID declared to be a legislative</p> <p>12 emergency?</p> <p>13 A. I think the photo voter ID was.</p> <p>14 Q. Who was responsible for declaring photographic photo</p> <p>15 ID to be a legislative emergency?</p> <p>16 A. The governor. It's my understanding that only the</p> <p>17 governor can call an emergency.</p> <p>18 Q. Are you aware of any conversations that occurred with</p> <p>19 the governor concerning what bills would be declared legislative</p> <p>20 emergencies?</p> <p>21 MR. SWEETEN: I think if you're asking about the</p> <p>22 fact of the conversation, if you would just -- I think you're</p> <p>23 asking subject matter. We talked about this. We talked about</p> <p>24 trying to get through this issue together, and I'll work with</p> <p>25 you. I think you've put too much substance into the</p>

<p style="text-align: right;">217</p> <p>1 conversation. If you want to ask about communications she's</p> <p>2 aware of, I'm comfortable with that.</p> <p>3 MR. FREEMAN: I'll rephrase.</p> <p>4 Q. Are you aware of any conversations concerning the</p> <p>5 declaration of legislative emergencies for the 2011 legislative</p> <p>6 session?</p> <p>7 A. I am not aware of any conversations prior to them</p> <p>8 being declared emergency.</p> <p>9 Q. So you didn't participate in any of those</p> <p>10 conversations?</p> <p>11 A. I did not.</p> <p>12 Q. Okay. Do you have any documents relating to the</p> <p>13 declaration of voter ID as a legislative emergency?</p> <p>14 A. Not that I'm aware of. I'm sure that we were sent</p> <p>15 something from the governor's office, but I can't tell you for</p> <p>16 sure I saw it or I have it.</p> <p>17 Q. Okay. So nothing outside the actual declaration</p> <p>18 itself?</p> <p>19 A. Right.</p> <p>20 Q. Okay. Was an election set to occur during the first</p> <p>21 60 days of the legislative session, to your knowledge?</p> <p>22 A. An election?</p> <p>23 Q. Uh-huh.</p> <p>24 A. In the State of Texas?</p> <p>25 Q. Uh-huh.</p>	<p style="text-align: right;">219</p> <p>1 Q. And if you can turn to Page 5. Now, as you can see on</p> <p>2 Page 5, this is an indication from the State of Texas in</p> <p>3 response to questions posed by the attorney general.</p> <p>4 A. Uh-huh.</p> <p>5 Q. And the State of Texas has indicated that Mr. Beuck</p> <p>6 assisted with the drafting, development and passage of S.B. 14</p> <p>7 in the Texas House of Representatives. Are you aware of any</p> <p>8 assistance that Mr. Beuck provided concerning the drafting of</p> <p>9 S.B. 14?</p> <p>10 A. I have no idea.</p> <p>11 Q. Are you aware of any assistance he provided in the</p> <p>12 development of S.B. 14?</p> <p>13 A. I have no idea.</p> <p>14 Q. Did you provide him with any instructions as to the</p> <p>15 substance of what you wished to be included in S.B. 14?</p> <p>16 MR. SWEETEN: I think we're getting into</p> <p>17 communication that she may have had with Mr. Beuck, her</p> <p>18 legislative assistant. I think that if you're asking did she</p> <p>19 talk with Mr. Beuck, I'll let her answer with respect to that.</p> <p>20 But as far as what she talked to him about or the specific</p> <p>21 matters, including Senate Bill 14, I think that those would be</p> <p>22 privileged, the substance of those.</p> <p>23 A. I'm sure we've had conversations about drafting a</p> <p>24 photo voter ID.</p> <p>25 MR. SWEETEN: Don't reveal the substance of</p>
<p style="text-align: right;">218</p> <p>1 A. I don't know, but I would bet there's some type of</p> <p>2 municipal or some type of election across Texas. I don't know</p> <p>3 though.</p> <p>4 Q. Was there a uniform election date -- maybe that's the</p> <p>5 right term -- set to occur during the first 60 days of the</p> <p>6 legislative session?</p> <p>7 A. If I remember correctly, the uniform election dates</p> <p>8 are either in May or November, and they're for school board</p> <p>9 elections or city municipal elections. So my guess would be no,</p> <p>10 because May is past 60 days.</p> <p>11 Q. Are you aware of any other reason why photographic</p> <p>12 voter ID was declared to be a legislative emergency?</p> <p>13 A. I am not aware.</p> <p>14 Q. Okay. Did you have any role in the development of</p> <p>15 S.B. 14 before it was submitted for consideration in the Senate?</p> <p>16 A. No.</p> <p>17 Q. Did your staff?</p> <p>18 A. No. Now, you're asking specifically about S.B. 14,</p> <p>19 correct?</p> <p>20 Q. I am.</p> <p>21 A. Because I think we filed a bill in the House that was</p> <p>22 similar to S.B. 14, if not a duplicate.</p> <p>23 Q. If I can put in front of you and mark as Government</p> <p>24 Exhibit, U.S. Exhibit 23.</p> <p>25 (Exhibit No. 23 marked)</p>	<p style="text-align: right;">220</p> <p>1 conversations. You can reveal the existence of conversations.</p> <p>2 A. I would bet that we had conversations.</p> <p>3 Q. Are you Mr. Beuck's direct supervisor?</p> <p>4 A. Yes. I can hire and fire him, if that's what you're</p> <p>5 asking.</p> <p>6 Q. Does Mr. Beuck take direction from any other</p> <p>7 individuals with regard to his work in the Texas Legislature?</p> <p>8 A. Not while employed by me.</p> <p>9 Q. Does he take any direction from Lt. Governor Dewhurst</p> <p>10 his former employer?</p> <p>11 A. No. I have to answer -- I have to assume he doesn't</p> <p>12 because if he does then he doesn't have a job with me.</p> <p>13 Q. Okay. And I don't mean to imply that he does.</p> <p>14 A. Yeah. Be careful, because we may be having a talk</p> <p>15 about this tomorrow.</p> <p>16 Q. I'm just trying to understand --</p> <p>17 A. I --</p> <p>18 Q. -- why Mr. Beuck was listed as having assisted with</p> <p>19 the development of S.B. 14 if you provided no instruction or</p> <p>20 gave no input with regard to the bill and you are the person who</p> <p>21 is his immediate supervisor. I guess if you could explain, to</p> <p>22 the extent of your knowledge and inside the confines of any</p> <p>23 instruction your counsel may give, this statement.</p> <p>24 MR. SWEETEN: One, I think your question would</p> <p>25 ask for conversations that she had with Mr. Beuck, who is her</p>

<p style="text-align: right;">221</p> <p>1 assistant, and that would be under the umbrella of what we</p> <p>2 believe is covered by the legislative privilege. Two, I think to</p> <p>3 some degree your question would ask for thoughts, mental</p> <p>4 impressions or opinions about legislation or her thoughts about</p> <p>5 that, and so I think that that's legislatively privileged.</p> <p>6 A. You know, we have discussions about legislation I want</p> <p>7 filed.</p> <p>8 Q. Okay. But you didn't file S.B. 14, correct?</p> <p>9 A. I filed -- I am pretty sure I filed a companion bill</p> <p>10 to S.B. 14.</p> <p>11 Q. That was identical in substance to S.B. 14?</p> <p>12 A. I think it was. I can't remember exactly.</p> <p>13 Q. And did you provide substantive direction with regard</p> <p>14 to that companion bill?</p> <p>15 A. No.</p> <p>16 Q. When was S.B. 14 filed in the Senate; do you know?</p> <p>17 A. I don't.</p> <p>18 Q. We can refresh your recollection. This is U.S.</p> <p>19 Exhibit 8.</p> <p>20 A. It says received by the Secretary of State. That</p> <p>21 doesn't make sense to me. Filed 1/12 of 2011.</p> <p>22 Q. Does that say the Secretary of the Senate?</p> <p>23 A. Yes. I'm sorry.</p> <p>24 Q. So January 12th?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">223</p> <p>1 MR. FREEMAN: You're a good student.</p> <p>2 MR. SWEETEN: She's only heard it, what, 200</p> <p>3 times today? Sorry. I was communicating with Matt over here.</p> <p>4 Q. Did you ever have a conversation with Speaker Straus</p> <p>5 on the general subject of House sponsorship of S.B. 14?</p> <p>6 MR. SWEETEN: You can answer the question as</p> <p>7 phrased.</p> <p>8 A. Yes.</p> <p>9 Q. When did that discussion occur?</p> <p>10 A. Probably after he was elected Speaker, before</p> <p>11 committee assignments came out.</p> <p>12 Q. How long did you speak for?</p> <p>13 A. Oh, when he and I spoke? Usually five minutes, two</p> <p>14 minutes.</p> <p>15 Q. Who else was present?</p> <p>16 A. I don't think anyone was.</p> <p>17 Q. Who initiated the conversation?</p> <p>18 A. I did.</p> <p>19 Q. Was that the only conversation that you had on that</p> <p>20 subject?</p> <p>21 A. Pertaining to photo voter ID?</p> <p>22 Q. And sponsorship in the House.</p> <p>23 A. We may have had one more.</p> <p>24 Q. Did you ever have any conversations with Chairman</p> <p>25 Bonnen on the same subject?</p>
<p style="text-align: right;">222</p> <p>1 Q. And when did S.B. 14 pass out of the Senate?</p> <p>2 A. Testimony taken, record vote, reported favorably. So</p> <p>3 it was reported favorably without amendments. I'm not exactly</p> <p>4 sure because their procedures are different than ours.</p> <p>5 Q. Was it -- on Page 6 does it note that it was reported</p> <p>6 engrossed from the Senate on January 26? Do you see that? The</p> <p>7 last one that says S before it starts saying H?</p> <p>8 A. Yes. It says reported engross, January 26.</p> <p>9 Q. And when was the bill referred to the Select Committee</p> <p>10 on Voter Identification and Voter Fraud?</p> <p>11 A. 2/11.</p> <p>12 Q. So February 11th?</p> <p>13 A. Yeah. It was read in the House on the 11th and</p> <p>14 referred to the committee on the 11th.</p> <p>15 Q. How were you chosen as the House sponsor?</p> <p>16 A. I don't know.</p> <p>17 Q. Did you ever ask Senator Fraser or speak to Senator</p> <p>18 Fraser about it?</p> <p>19 A. I would say that's privileged.</p> <p>20 MR. FREEMAN: Unless your attorney asserts</p> <p>21 privilege, I'll ask you to answer.</p> <p>22 THE WITNESS: Wake up.</p> <p>23 MR. SWEETEN: Actually, with respect to any</p> <p>24 conversation she had with Senator Fraser, that's legislatively</p> <p>25 privileged.</p>	<p style="text-align: right;">224</p> <p>1 MR. SWEETEN: Again, you can answer as to whether</p> <p>2 a conversation occurred. Don't reveal any of the contents.</p> <p>3 A. No.</p> <p>4 Q. Were any of these conversations documented in</p> <p>5 memoranda or e-mail?</p> <p>6 A. No, not that I know of.</p> <p>7 Q. Okay. When did you find out that you would be the</p> <p>8 House sponsor of S.B. 14?</p> <p>9 A. When Chairman Bonnen issued a press release and sent</p> <p>10 it out through House administration, and I got the press</p> <p>11 release.</p> <p>12 Q. He didn't speak to you first?</p> <p>13 A. No. The dynamics in the House are different.</p> <p>14 MR. SWEETEN: Okay. Just answer his question.</p> <p>15 Q. Based on the history of the bill that you have in</p> <p>16 front of you, how long did the bill take to pass out of the</p> <p>17 select committee to the floor of the House?</p> <p>18 A. It was referred to the select committee on 2/11 and</p> <p>19 scheduled for a committee hearing on 3/1. Testimony was taken</p> <p>20 on 3/1, was left pending on 3/1, and it was voted out with a</p> <p>21 committee substitute on 3/7 and recorded favorably on 3/7.</p> <p>22 Q. So it was only in committee for a week; is that</p> <p>23 correct?</p> <p>24 A. From the date it was referred was 2/11 to 3/7. So</p> <p>25 that was a month.</p>

<p style="text-align: right;">225</p> <p>1 Q. But from the first hearing to the final hearing, it</p> <p>2 was just a week; is that correct?</p> <p>3 A. From the date that it was heard for public comment on</p> <p>4 3/1 to voted out on 3/7, six days.</p> <p>5 Q. Just to loop back real quickly, why did you go to</p> <p>6 Speaker Straus to talk to him about sponsorship of S.B. 14 in</p> <p>7 the House?</p> <p>8 MR. SWEETEN: I think your question would require</p> <p>9 her to reveal thoughts, mental impressions, opinions about</p> <p>10 legislation, legislative process, and would require her to</p> <p>11 reveal communications with Speaker Straus, and, therefore, I'm</p> <p>12 going to object as legislatively privileged.</p> <p>13 A. Privileged.</p> <p>14 Q. Okay. Did you have any additional conversations with</p> <p>15 Senator Fraser concerning S.B. 14 on the general subject?</p> <p>16 A. Prior to it getting referred to the House in the press</p> <p>17 release?</p> <p>18 Q. Yes.</p> <p>19 A. I don't recall if I did.</p> <p>20 Q. Did you have any conversations with Senator Fraser on</p> <p>21 the subject of S.B. 14 after it was referred to the House?</p> <p>22 A. I don't think I had any conversations with him prior</p> <p>23 to Dennis Bonnen doing his press release that I would carry it.</p> <p>24 Q. Did you have any conversations with Senator Fraser</p> <p>25 after Chairman Bonnen's press release?</p>	<p style="text-align: right;">227</p> <p>1 Q. Okay. Did you ever e-mail with Senator Fraser or his</p> <p>2 staff?</p> <p>3 A. I don't recall e-mailing Senator Fraser at all and I</p> <p>4 don't recall e-mailing Janice. May have, but I don't recall it.</p> <p>5 Q. Okay. Did you ever instruct Mr. Beuck to e-mail</p> <p>6 Janice?</p> <p>7 A. I don't recall instructing him to e-mail her.</p> <p>8 Q. Uh-huh.</p> <p>9 A. But I know that he probably did e-mail her during the</p> <p>10 course of the legislation moving.</p> <p>11 Q. Okay. Was the period of time between when S.B. 14 was</p> <p>12 first addressed in a public hearing and when it was passed out</p> <p>13 of committee shorter than usual for a major bill like this?</p> <p>14 A. Actually, I don't think it is.</p> <p>15 Q. Okay. What does it mean for a bill to be placed on the</p> <p>16 emergency calendar?</p> <p>17 MR. SWEETEN: I think that's been asked and</p> <p>18 answered, but go ahead.</p> <p>19 A. I don't know what the rules are.</p> <p>20 Q. Okay. You haven't served on the rules committee?</p> <p>21 A. Served on Rules and Resolutions, but --</p> <p>22 Q. I'm sorry. Calendars committee?</p> <p>23 A. No, I have not.</p> <p>24 Q. Okay. So you're not aware of the distinction between</p> <p>25 the emergency calendar and any other calendar?</p>
<p style="text-align: right;">226</p> <p>1 A. I could have. I don't remember specifically.</p> <p>2 Q. So you don't recall any specific conversations with</p> <p>3 Senator Fraser even after you were carrying his bill?</p> <p>4 A. Yes. We -- after we started moving the bill forward.</p> <p>5 Q. Okay.</p> <p>6 A. We had conversations, but not -- I don't recall</p> <p>7 anything from the -- from before we had the hearing to the time</p> <p>8 it got to the floor. After we had the hearing, I'm sure we had</p> <p>9 conversations.</p> <p>10 Q. Okay. When did those conversations occur?</p> <p>11 A. You know, I don't remember.</p> <p>12 Q. Do you remember approximately how many there were?</p> <p>13 A. I know I went to his office and visited with him once</p> <p>14 and maybe visited with his staff one other time.</p> <p>15 Q. Okay. When you visited with him, was anyone else</p> <p>16 present?</p> <p>17 A. I know my chief of staff and his chief of staff were</p> <p>18 there.</p> <p>19 Q. Is his chief of staff Janice McCoy?</p> <p>20 A. Yes. I think that's her title.</p> <p>21 Q. Okay. And when you met with his staff, who was</p> <p>22 present?</p> <p>23 A. Janice and Colby.</p> <p>24 Q. So just the three of you?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">228</p> <p>1 A. I'm not. I probably should be. I'm not.</p> <p>2 Q. Does the Calendar committee control who puts bills on</p> <p>3 the emergency calendar?</p> <p>4 A. I am not aware. I'm not advised.</p> <p>5 Q. Okay. Were any changes introduced to S.B. 14 in the</p> <p>6 conference committee that had not been in the version of the</p> <p>7 bill passed by either House?</p> <p>8 MR. SWEETEN: You mean the House or the Senate?</p> <p>9 Q. Either House of the Texas Legislature.</p> <p>10 A. Yes. I know from the floor we had a resolution on the</p> <p>11 changes in the Conference committee.</p> <p>12 Q. And what were those changes?</p> <p>13 A. There were several. We defined the voter certificate</p> <p>14 election card. We took out an amendment on the -- we deleted</p> <p>15 some of the amendments. I can't remember all of them. I had an</p> <p>16 outside-of-the-bounds resolution.</p> <p>17 Q. And what does an outside-of-the-bounds resolution</p> <p>18 mean?</p> <p>19 A. It means that when something is different that was in</p> <p>20 the House version or the Senate version that hadn't been in</p> <p>21 either, it has -- you have to have a vote on allowing the</p> <p>22 membership to do that.</p> <p>23 Q. How often does that happen?</p> <p>24 A. During the last few days of session, when we're doing</p> <p>25 conference committee reports, it happens more often than</p>

<p style="text-align: right;">229</p> <p>1 probably we would like.</p> <p>2 Q. And why was the exemption based on religious beliefs</p> <p>3 added back in in conference?</p> <p>4 MR. SWEETEN: Hold on a minute. You're asking</p> <p>5 her, I believe, to reveal thoughts, mental impressions or</p> <p>6 opinions about legislation. I think the "why" question does</p> <p>7 that. It also could require her to reveal communication. So I</p> <p>8 think that is within the confines of what is legislatively</p> <p>9 privileged. Instruct her accordingly.</p> <p>10 A. If I could remember, I would probably say it was</p> <p>11 privileged.</p> <p>12 Q. So you didn't make any public statements regarding</p> <p>13 that, of which you're aware?</p> <p>14 A. Not that I'm aware. There could have been when we did</p> <p>15 the outside-of-the-bounds resolution. I don't know.</p> <p>16 Q. And do you recall what changes were included</p> <p>17 concerning the election identification certificate in the</p> <p>18 out-of-the-bounds resolution?</p> <p>19 A. There was a clarification to make sure the discussion</p> <p>20 was -- during the debate Representative Anchia raised a concern</p> <p>21 that the free ID card would draw funds out of the Texas Mobility</p> <p>22 Fund. So the out-of-the-bounds resolution and the change was to</p> <p>23 clarify that it would be election certificate voter card -- I</p> <p>24 forget the proper name -- and that it would not draw from the</p> <p>25 Texas Mobility Fund.</p>	<p style="text-align: right;">231</p> <p>1 A. People?</p> <p>2 Q. Individuals.</p> <p>3 MR. SWEETEN: I just want to make sure that</p> <p>4 you're not revealing communication with other legislators,</p> <p>5 legislation staff, state agencies, Legislative Council,</p> <p>6 constituents. And don't reveal thoughts, mental impressions,</p> <p>7 opinions about the legislation. To the extent you can answer</p> <p>8 that question without doing so, you can answer.</p> <p>9 A. I think from the committee testimony and the debate on</p> <p>10 the floor, probably the most vocal in opposition to the</p> <p>11 legislation, if I remember correctly -- I know Anchia, Rafael</p> <p>12 Anchia. I know Mark Veasey. I remember a number of times with</p> <p>13 back-and-forth debate with Represent Richard Raymond. I think</p> <p>14 there were some -- I know Yvonne Davis offered a couple of</p> <p>15 amendments, one which I took. Representative Donna Dukes</p> <p>16 offered a couple amendments, and I think we adopted one of her</p> <p>17 amendments, I think.</p> <p>18 Q. Are you aware of any outside groups who were opposed</p> <p>19 to S.B. 14?</p> <p>20 MR. SWEETEN: Again, don't reveal communications</p> <p>21 with other legislators, with legislative staff, state agencies,</p> <p>22 Texas Leg Council or constituents in answering this question.</p> <p>23 A. Other than the people that testified in committee</p> <p>24 against it, those are the only ones.</p> <p>25 Q. And who were those?</p>
<p style="text-align: right;">230</p> <p>1 Q. Are you aware of the date on which the governor signed</p> <p>2 S.B. 14?</p> <p>3 A. I bet it's in here.</p> <p>4 Q. Feel free to refresh your recollection.</p> <p>5 A. Signed by the governor on 5/27.</p> <p>6 Q. To your knowledge has the Secretary of State enforced</p> <p>7 any part of S.B. 14 concerning photographic voter ID?</p> <p>8 A. To my knowledge, they have not.</p> <p>9 Q. Are you aware of any local election official who has</p> <p>10 enforced any part of the photographic voter ID requirements of</p> <p>11 S.B. 14?</p> <p>12 A. To my recollection, no.</p> <p>13 Q. Okay. Have you heard of any reports of confusion</p> <p>14 concerning voter ID requirements leading up to the upcoming</p> <p>15 primary in a couple weeks?</p> <p>16 A. I have seen a press release issued by a senator in</p> <p>17 Harris County instructing the Secretary of State to make sure</p> <p>18 that there is not confusion.</p> <p>19 Q. Who is that senator?</p> <p>20 A. I think it was senator Rodney Ellis from Harris</p> <p>21 County, I think.</p> <p>22 Q. And are you aware of the reason why Senator Ellis</p> <p>23 issued that press release?</p> <p>24 A. No.</p> <p>25 Q. Okay. Who were the main opponents of S.B. 14.</p>	<p style="text-align: right;">232</p> <p>1 A. MALDEF testified. I think LULAC testified. I think</p> <p>2 there were some individuals representing different minority</p> <p>3 groups that testified.</p> <p>4 Q. Were there any minority groups that testified in favor</p> <p>5 of the bill?</p> <p>6 A. There were some minorities that testified in favor of</p> <p>7 the bill. I don't know what groups they were associated with.</p> <p>8 Q. Can you, sitting here today, identify any minority</p> <p>9 groups that testified in favor of the bill in committee</p> <p>10 hearings?</p> <p>11 A. I can't recall specifically what groups they were</p> <p>12 with.</p> <p>13 Q. Did it concern you at all that all the major minority</p> <p>14 groups were opposed to S.B. 14?</p> <p>15 MR. SWEETEN: Don't reveal your thoughts, mental</p> <p>16 impressions or opinions about the legislation or communications</p> <p>17 with the groups that we've discussed.</p> <p>18 A. Okay. I don't know that I can define all the minority</p> <p>19 groups, but if I were to, it was probably privileged</p> <p>20 communication.</p> <p>21 Q. I'm not asking for any communication between different</p> <p>22 legislators. I'm asking with regard to major groups that you've</p> <p>23 named. And based on your inability to name groups that were in</p> <p>24 favor of the bill representing minority voters, did it concern</p> <p>25 you that the major groups all lined up against the bill?</p>



<p style="text-align: right;">233</p> <p>1 MR. SWEETEN: When you're asking about her</p> <p>2 concern, you're asking her to reveal her thoughts, her mental</p> <p>3 impressions and her opinions about legislation. I think that</p> <p>4 directly asks that. So I think that's squarely within the</p> <p>5 legislation privilege. I'm going to instruct you not to answer.</p> <p>6 A. Privileged.</p> <p>7 Q. Okay. Did you at any time learn of any election</p> <p>8 officials who were opposed to S.B. 14?</p> <p>9 A. I can't recall if any testified in committee against</p> <p>10 it. That's not to say there were or weren't. I just can't</p> <p>11 remember.</p> <p>12 Q. Okay. Are you aware of any constituents who testified</p> <p>13 against S.B. 14?</p> <p>14 A. That is possible, but I can't remember.</p> <p>15 Q. Did any one of your constituents, without prompting</p> <p>16 from your office, reach out to your office to offer their</p> <p>17 opposition to S.B. 14?</p> <p>18 MR. SWEETEN: With respect to the substance of</p> <p>19 conversations between constituents and Representative Harless</p> <p>20 office, I believe that would be a matter that is legislatively</p> <p>21 privileged and would fall within one of the communication areas</p> <p>22 that I've been objecting to today. Don't reveal the substance</p> <p>23 of any communications with constituents.</p> <p>24 THE WITNESS: I don't understand. Do I answer the</p> <p>25 question?</p>	<p style="text-align: right;">235</p> <p>1 constituents, legislators, legislative staff, state agencies or</p> <p>2 Texas Legislative Council. I will instruct you to only answer</p> <p>3 to the extent you are not revealing matters that are subject to</p> <p>4 the privilege.</p> <p>5 A. It's privileged.</p> <p>6 Q. Okay. Were you ever concerned that failing to address</p> <p>7 the concerns of minority voters and the groups representing</p> <p>8 minority voters might have an impact on preclearance of S.B. 14</p> <p>9 under Section 5 of the Voting Rights Act?</p> <p>10 MR. SWEETEN: You're asking her to reveal her</p> <p>11 thoughts, mental impressions or opinions about the legislation,</p> <p>12 therefore, it's legislatively privileged.</p> <p>13 A. My testimony on the floor was that I felt that we had</p> <p>14 met the constitutional standards laid out in Georgia's</p> <p>15 legislation with -- providing the ability to deter and detect</p> <p>16 fraud, providing for a free ID card, a disabled exemption,</p> <p>17 religious exemption. We met all the tests.</p> <p>18 Q. Okay.</p> <p>19 A. To meet Section 5.</p> <p>20 Q. Why did you think there was such strong opposition to</p> <p>21 S.B. 14?</p> <p>22 MR. SWEETEN: I think that question asks her to</p> <p>23 reveal thoughts, mental impressions, opinions about legislation</p> <p>24 Senate Bill 14, and it also could ask her to reveal</p> <p>25 communications among the groups or individuals that we've</p>
<p style="text-align: right;">234</p> <p>1 MR. SWEETEN: If you can't answer that question</p> <p>2 without revealing the substance of conversations between you and</p> <p>3 constituents, then you can't answer the question and tell him</p> <p>4 so.</p> <p>5 A. Okay. It's privileged.</p> <p>6 Q. Okay. And did you take any steps to address the</p> <p>7 concerns expressed in the hearings or elsewhere by minority</p> <p>8 groups?</p> <p>9 A. I think the testimony on the floor was that we</p> <p>10 provided for the approved forms of identification. If someone</p> <p>11 did not have one of the approved forms, we would provide them</p> <p>12 with free identification card in order to vote. And the bill</p> <p>13 was drafted with funds set aside for education and an</p> <p>14 opportunity for, as we have now, ballot by mail if you're a</p> <p>15 senior or disabled. We put in all the safeguards.</p> <p>16 MR. FREEMAN: Going to object to that as</p> <p>17 nonresponsive, and I guess I'll rearticulate.</p> <p>18 Q. Can you identify today any changes that were made to</p> <p>19 S.B. 14 in response to concerns articulated by minority groups</p> <p>20 during the hearings held by the Select Committee on Voter</p> <p>21 Identification and Voter Fraud?</p> <p>22 Mr. SWEETEN: Other than matters of public</p> <p>23 record, including committee hearings or House proceedings, your</p> <p>24 question is asking her to reveal thoughts, mental impressions,</p> <p>25 opinions about the legislation or communications between</p>	<p style="text-align: right;">236</p> <p>1 listed, and is therefore legislatively privileged.</p> <p>2 Q. Is your response that any response would be</p> <p>3 privileged?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Did you ever make any public statements about</p> <p>6 the opposition to the bill that you recall?</p> <p>7 MR. SWEETEN: You can answer.</p> <p>8 A. Possibly. There may be.</p> <p>9 Q. Do you have your op-ed in front of you?</p> <p>10 A. I do, somewhere.</p> <p>11 Q. I believe that's it. Did you ever refer to the claims</p> <p>12 made by opponents of photo ID as spurious?</p> <p>13 A. If it's in here, I guess I did.</p> <p>14 Q. It's on the bottom of the first page, last sentence of</p> <p>15 the first page. And this is Exhibit No. 19.</p> <p>16 A. Yes. And then I proceeded by quoting Justice Stevens</p> <p>17 opinion that includes, "Burdens arising from life's" -- I can't</p> <p>18 read it. It's typed over.</p> <p>19 Q. Would it be "vagaries"?</p> <p>20 A. Yeah -- "however, are neither so serious or frequent</p> <p>21 as to raise questions about the constitutionality of the photo</p> <p>22 voter ID."</p> <p>23 Q. Are you aware of what the legal test is under</p> <p>24 Section 5 of the Voting Rights Act?</p> <p>25 A. I don't recall it.</p>

<p style="text-align: right;">237</p> <p>1 Q. Are you aware of whether Crawford V. Marion County 2 Board of Elections was a case under the Voting Rights Act? 3 A. That's the Georgia? 4 Q. No. That's the Indiana. 5 A. Indiana? No, that was not subject to preclearance. 6 Q. And are you aware of whether that case addressed 7 whether the photo ID legislation would have a disparate impact 8 on minority voters, a greater impact on minority voters than on 9 Anglo voters? 10 A. I don't remember the specifics of the case. I have 11 read it, but I don't remember. 12 Q. How would you define spurious? 13 A. I couldn't define that. And I'd like to take complete 14 authorship of this, but my staff pretty much wrote a lot of 15 this. And I'm sorry. 16 Q. Were all of the arguments made against photo ID 17 requirements just concerning the constitutionality of the photo 18 ID requirement? 19 MR. SWEETEN: Are you asking about arguments made 20 at the hearing or are you -- 21 MR. FREEMAN: We can start with public. 22 A. Say that one more time. 23 Q. Were all of the arguments made against photo ID 24 arguments that photo ID would be unconstitutional? 25 MR. SWEETEN: He's asking about public, so I'm</p>	<p style="text-align: right;">239</p> <p>1 A. On the public record, I felt like -- I remember 2 testifying that I felt that it would affect all Texans equally. 3 Q. Were you concerned that S.B. 14 might 4 disproportionately and negatively impact minority voters? 5 MR. SWEETEN: I think you're asking for her to 6 reveal thoughts, mental impressions, or opinions about 7 legislation, particularly Senate Bill 14, which is privileged. 8 Don't answer the question. 9 A. Privileged. 10 Q. Did you seek any advice on whether S.B. 14 complied 11 with Section 5 of the Voting Rights Act? 12 MR. SWEETEN: Same objection. 13 A. That's privileged. 14 Q. What was your strategy to ensure that S.B. 14 was 15 passed on the House floor? 16 MR. SWEETEN: Same objection. Don't answer the 17 question. It's legislatively privileged. 18 A. It's privileged. 19 Q. How did you prevent chubbing? 20 MR. SWEETEN: Good lord. Chubbing? 21 MR. FREEMAN: Chubbing. 22 MR. SWEETEN: That sounds like it would ask her to 23 reveal mental impressions, opinions about legislation. So I'm 24 going to object as legislatively privileged. 25 A. There was never any debate about chubbing on the</p>
<p style="text-align: right;">238</p> <p>1 not going to make an instruction. 2 A. I don't recall. 3 Q. Did anyone argue that it was simply not necessary? 4 MR. SWEETEN: This is still as to public? 5 MR. FREEMAN: In public. 6 A. I'm sure there were witnesses that said that it wasn't 7 necessary. 8 Q. And did Crawford V. Marion County Board of Elections 9 address whether photo ID was good policy? 10 A. I don't recall that in Indiana's testimony. 11 Q. Does the Supreme Court ordinarily pass on whether a 12 law is good policy? 13 A. I don't know what the Supreme Court does. 14 Q. Okay. Did you ever discuss whether S.B. 14 might 15 impact minority voters more than it impacted Anglo voters with 16 anyone? 17 MR. SWEETEN: I'm going to object. I think 18 you're asking for information that relates to mental impressions 19 or communications between legislators, legislative staff, Texas 20 Legislative Council or constituents. To the extent it does so, 21 I'm going to instruct you not to answer based on legislative 22 privilege. 23 A. It's privileged. 24 Q. Did you ever have any discussions of disproportionate 25 impact on the public record?</p>	<p style="text-align: right;">240</p> <p>1 floor. 2 MR. FREEMAN: Mr. Sweeten, after this deposition 3 we can have a discussion about what chubbing is. That's fine. 4 MR. SWEETEN: I'd like to know what chubbing is. 5 THE WITNESS: I know what chubbing is. 6 Q. How did you prepare for the floor debate? 7 MR. SWEETEN: To the extent that that question 8 would require you to reveal communications between legislators, 9 legislation staff, state agencies, Texas Legislative Council, 10 constituents or would reveal your thoughts, mental impressions 11 or opinions about the legislation, don't answer the question. 12 A. It would do all of those. 13 Q. Did you have any discussions with any individuals on 14 the general subject of the floor debate prior to the floor 15 debate? 16 MR. SWEETEN: I'm going to let you answer to 17 whether or not you had discussions and the names of the 18 individuals. Do not reveal the substance of the communication. 19 A. I had discussions with members of the House that were 20 going to help me with the floor debate. Discussions with my 21 staff. I'm trying to remember if there were anyone else. 22 Possibly discussions with Janice. Possibly discussions with an 23 employee with the Lt. Governor's office. 24 Q. And who was that? 25 A. Brian Herbert.</p>

<p style="text-align: right;">245</p> <p>1 A. I think on occasion, when a member has gone to the 2 back mike, if I remember correctly and said, please let the 3 remarks be recorded in the journal, the speaker has said, it's 4 already been done. So I don't know what the distinction is. 5 Q. But not everything will automatically show up in the 6 House journal, correct? 7 A. Yes. That's a true statement. 8 Q. Good enough. Can you turn to Amendment 15 on Page 969 9 and take a look at that amendment. 10 A. Amendment 15? 11 Q. That's correct. When Amendment 15 was offered -- well, 12 first, can you explain what the purpose of Amendment 15 was, to 13 the extent of your understanding? 14 MR. SWEETEN: I'm going to let you discuss it to 15 the extent it appears on public record or you can refer to 16 hearings or committees. He's asking about purpose though 17 potentially invades and requires you to reveal thoughts, mental 18 impressions, opinions about the legislation, including that 19 amendment offered on Senate Bill 14. Also could implicate 20 communications that you've had. Therefore, I want you to be -- 21 to answer to the extent it does not invade legislative 22 privilege. 23 A. I'm not sure what this was about. 24 Q. Well, can you explain the substance, what it would do? 25 A. It says fees prohibited for certain forms of</p>	<p style="text-align: right;">247</p> <p>1 of the bill as well, the amendment. 2 A. That's what I said. 3 Q. And now that you've read Representative Martinez's 4 statement, can you tell me what the amendment would have done? 5 A. It -- his statement talks about, he doesn't know where 6 his birth certificate is. It's probably at his mom's house. If 7 he had to get a certified copy of his birth certificate he would 8 have to go down to the vital statics and pay \$22 in order to get 9 that. 10 Q. And so essentially, isn't it the case that this 11 amendment would make it free to get the documents that you need 12 to get the free ID? Is that correct? 13 A. I don't know that the people that would -- this bill 14 was about providing integrity in the election process and 15 protecting the election process. 16 MR. SWEETEN: You want to confine your answers to 17 the matters of the public record. I don't want you to go into 18 reveal thoughts, mental impressions or opinions about the 19 legislation. So there's a line here. Clearly, you can discuss 20 the public record. You can discuss his questions to the extent 21 they appear in the House journal, but I don't want you to go 22 into your mental impressions, opinions about the legislature. 23 A. And I'll stay with my statement that I said on the 24 record that the bill was about photo ID and not issuing 25 documents for free IDs.</p>
<p style="text-align: right;">246</p> <p>1 identification documents, and it references the election code 2 strikes. So I'm not sure exactly what this amendment did except 3 for it's saying you can't charge any fees for identification 4 documents. 5 Q. And isn't it the case that Amendment 15 would have 6 prohibited fees needed -- fees to obtain a document that may be 7 used as proof of identification under S.B. 14? Isn't that 8 correct? 9 A. I'm not sure. The way it reads, it says for certain 10 forms of identification. I don't know if they're the same forms 11 that are required to get a driver's license or ID or different 12 forms or -- I can't answer it. 13 Q. Why did you move to table this amendment? 14 MR. SWEETEN: Don't answer that. It would 15 require you to reveal your thoughts, mental impressions, 16 opinions about the legislation. 17 A. It's privileged, unless it's in the record. 18 Q. During the debate, do you recall saying that the bill 19 was about voter ID, not issuing documents for free ID? And I 20 can put in front of you what we're going to mark as U.S. Exhibit 21 24. 22 (Exhibit No. 24 marked) 23 Q. This is Volume II of the full transcript. And if you 24 look to Page 12. And perhaps if you could take a look at 25 Representative Martinez's statement, you can get a better sense</p>	<p style="text-align: right;">248</p> <p>1 Q. But didn't you earlier say that it was important that 2 an election identification certificate be available for free in 3 order for this not to have a negative impact on any Texans, 4 including minority Texans? 5 A. I don't know if I said it was important. I said one 6 of the provisions was a free voter certificate card for people 7 that didn't have one of the approved forms of devices -- 8 devices? -- of IDs. 9 Q. Okay. And so I guess I'll ask again, if that was one 10 of the elements of S.B. 14 that helped make it legal, that that 11 ID be available for free, for that to be a free ID, doesn't it 12 need to be free to get the documents that you need to get the 13 free ID, as a matter of logic? 14 A. I think that's privileged. 15 MR. SWEETEN: Yeah. Don't reveal your thoughts, 16 mental impressions, opinions about the legislation. Okay? 17 Q. Okay. I'll simply ask for the record one more time, 18 why did you move to table Amendment 15? 19 MR. SWEETEN: Same objection. Refer to matters of 20 public record, that it's legislatively privileged. 21 A. I said, "Members, I'd like to move to table this 22 motion. This bill is about voter ID and not about issuing free 23 IDs, not about issuing documents for free IDs." 24 Q. If you could please turn to Page 979 and Amendment No. 25 23 and take a look at that amendment real quickly.</p>

<p style="text-align: right;">249</p> <p>1 A. 979?</p> <p>2 Q. 979 of the House journal, which is again Exhibit No --</p> <p>3 A. 9.</p> <p>4 Q. Yes, 9.</p> <p>5 A. Amendment number?</p> <p>6 Q. 23, offered by Representative Dutton?</p> <p>7 A. It's an amendment to allow for student identification</p> <p>8 cards by public, private high school or institution of</p> <p>9 education.</p> <p>10 Q. Do you recall telling Bloomberg News -- I believe I</p> <p>11 showed you the article earlier -- that you wanted a form of</p> <p>12 identification that was easily recognized by poll workers at the</p> <p>13 election site?</p> <p>14 A. I haven't seen the article, but I remember that</p> <p>15 statement.</p> <p>16 Q. You do remember making that statement?</p> <p>17 A. I don't know who I made that statement to, but I've</p> <p>18 made that statement before.</p> <p>19 Q. It's Exhibit 10. I believe you should have it in</p> <p>20 front of you, if you want to take a look and refresh your</p> <p>21 recollection.</p> <p>22 A. I've got 11, 4, 12, 7, 6. Do you know about where it's</p> <p>23 at? Where it says "Election Integrity, Harless, Republican</p> <p>24 State Rep, said concerns of constituents about 'the integrity of</p> <p>25 elections' rather than possible partisan advantage explains why</p>	<p style="text-align: right;">251</p> <p>1 many different IDs are issued by the United States military?</p> <p>2 A. In the record we talked about the military ID. And if</p> <p>3 I remember correctly, when asked about that, my response was the</p> <p>4 military identification is a card issued by one of the branches</p> <p>5 of the service. Other than that, I don't know.</p> <p>6 Q. Are you aware of whether they issue identification</p> <p>7 cards to contractors?</p> <p>8 A. I'm not aware of any of that.</p> <p>9 Q. Are you aware of whether they issue identification</p> <p>10 cards to family members of active military soldiers?</p> <p>11 A. I am not aware of any of that.</p> <p>12 Q. Are you aware of whether they issue identification</p> <p>13 cards to veterans?</p> <p>14 A. The active branches of the military?</p> <p>15 Q. Or the Veterans Administration?</p> <p>16 A. I am aware that the Veterans Administration issues</p> <p>17 IDs.</p> <p>18 Q. And are you aware of whether the military issues ID</p> <p>19 cards to reservists?</p> <p>20 A. I don't know.</p> <p>21 Q. Did you assess, when you were working on S.B. 14, how</p> <p>22 many ID cards were issued by the United States military?</p> <p>23 MR. SWEETEN: Don't reveal thoughts, mental</p> <p>24 impressions, opinions about the legislation. Don't reveal</p> <p>25 communications between legislators, legislative staff, state</p>
<p style="text-align: right;">250</p> <p>1 she sponsored the voter ID measure last year. The law reduces</p> <p>2 the possibility of fraud, she said. Lawmakers excluded student</p> <p>3 IDs because 'we wanted a form of identification that was easily</p> <p>4 recognized by poll workers at the election site.'"</p> <p>5 Q. So that's a correct statement?</p> <p>6 A. Yes. That's what it says there.</p> <p>7 Q. Bloomberg does a better job of quoting than the</p> <p>8 Houston Chronicle?</p> <p>9 A. I don't know. I recognize saying that statement</p> <p>10 before.</p> <p>11 Q. Okay.</p> <p>12 A. Whether it was in this record or that.</p> <p>13 Q. Okay. Didn't you previously testify that your polling</p> <p>14 place is at a school?</p> <p>15 A. At my current home?</p> <p>16 Q. Uh-huh.</p> <p>17 A. Yes.</p> <p>18 Q. So isn't it likely that there wouldn't be more than</p> <p>19 one or two, a few different high school IDs at any given polling</p> <p>20 place?</p> <p>21 A. I couldn't even speculate on that.</p> <p>22 Q. Okay. Are you aware of how many forms of</p> <p>23 identification are issued by the United States military?</p> <p>24 A. I'm not sure what your question is.</p> <p>25 Q. Are you aware of how many forms of identification, how</p>	<p style="text-align: right;">252</p> <p>1 agencies, Leg Council or constituents.</p> <p>2 A. That's privileged.</p> <p>3 Q. Do you believe that poll workers will be able to</p> <p>4 easily recognize military IDs?</p> <p>5 A. I think that they are a standardized form.</p> <p>6 Q. What is the basis for that belief?</p> <p>7 A. If it's issued by one of the branches of the military.</p> <p>8 If they're a Marine, they have a Marine card.</p> <p>9 Q. Have you ever seen a military ID?</p> <p>10 A. I think I probably have.</p> <p>11 Q. Could you tell me what it looks like.</p> <p>12 A. I can't off the top of my head.</p> <p>13 Q. Why does S.B. 14 allow military identification and not</p> <p>14 college identification as a permissible form of ID?</p> <p>15 MR. SWEETEN: Objection, calls for matters of</p> <p>16 legislative privilege and asks her to reveal thoughts, mental</p> <p>17 impressions, opinions or communications she's had with the</p> <p>18 entities or individuals I've previously named.</p> <p>19 A. That's privileged.</p> <p>20 MR. SWEETEN: Instruct her not to answer.</p> <p>21 Q. Are you aware of the demographics of the college</p> <p>22 population in the State of Texas?</p> <p>23 A. I am not.</p> <p>24 Q. Are you aware of whether the population in the State</p> <p>25 of Texas that is currently attending college is a higher</p>

<p style="text-align: right;">253</p> <p>1 percentage minority than the population of the state as a whole?</p> <p>2 A. I'm not.</p> <p>3 Q. Okay. If you can turn to Amendment No. 30, which is</p> <p>4 on Page 984, onto 985. And Amendment 30 added a valid</p> <p>5 identification card that contains the person's photograph and is</p> <p>6 issued by a tribal organization to the list of acceptable IDs,</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. And you didn't oppose this amendment, correct?</p> <p>10 A. Um, we had --</p> <p>11 MR. SWEETEN: Just reveal it as to matters of</p> <p>12 public record. Don't reveal your thoughts or mental impressions</p> <p>13 or opinions. So oppose could be -- if it's a public matter, you</p> <p>14 can discuss it. If it's a mental impression or opinion about</p> <p>15 the legislation, do not.</p> <p>16 A. We had considerable amount of debate on the floor or</p> <p>17 dialogue on the floor about this. Representative Gonzalez</p> <p>18 offered the amendment, if I remember correctly. Then she pulled</p> <p>19 it down, went to seek counsel with other members, came back with</p> <p>20 the other members, offered the amendment back. And we discussed</p> <p>21 that, in her opinion, all tribal cards were issued by an agency</p> <p>22 of the federal government.</p> <p>23 Q. Uh-huh.</p> <p>24 A. And we had a discussion -- I don't remember the</p> <p>25 specifics of it, but it was on the record -- that if she could</p>	<p style="text-align: right;">255</p> <p>1 would be legislatively privileged. Public matter, though, you</p> <p>2 can answer questions about the statement, but don't reveal the</p> <p>3 privileged information.</p> <p>4 A. The statement was based on privileged information from</p> <p>5 conversations with colleagues.</p> <p>6 Q. Okay. What about enhanced tribal IDs issued by the</p> <p>7 federal government? Aren't these in a single standardized form?</p> <p>8 A. If I remember correctly, that was the term that she</p> <p>9 used during her presentation of the amendment.</p> <p>10 Q. Uh-huh.</p> <p>11 A. And could not confirm -- or there was never any proof</p> <p>12 in the record that she knew that those were the types of IDs</p> <p>13 that were presented in Texas.</p> <p>14 Q. Do you know how many state or federally recognized</p> <p>15 tribes there are in Texas?</p> <p>16 A. I know we discussed that on the floor. I can't</p> <p>17 remember. I remember the debate being about 5,000 tribal</p> <p>18 members in Texas, but I don't know how many select tribes.</p> <p>19 Q. If I can just get -- this is U.S. 25. And if you can</p> <p>20 just take a look under Texas and see if you can refresh your</p> <p>21 recollection.</p> <p>22 (Exhibit No. 25 marked)</p> <p>23 A. I don't recall ever seeing this document at any time</p> <p>24 during the debate.</p> <p>25 Q. Sure.</p>
<p style="text-align: right;">254</p> <p>1 provide me with the information that she was quoting from then I</p> <p>2 would keep this amendment in the legislation.</p> <p>3 Q. Uh-huh.</p> <p>4 A. But if she could not provide that, we would not keep</p> <p>5 it. We would accept it based on her response that she had this</p> <p>6 information.</p> <p>7 Q. And so is it your statement, then, that it came out in</p> <p>8 the conference committee because she did not provide that</p> <p>9 information?</p> <p>10 MR. SWEETEN: Same instruction.</p> <p>11 A. That's privileged conversation.</p> <p>12 Q. You told the Texas Tribune that these IDs do not have</p> <p>13 a single standardized form; is that correct?</p> <p>14 A. If that's what it says I did.</p> <p>15 Q. And what was the basis for that statement?</p> <p>16 A. That would be privileged conversation.</p> <p>17 Q. Are you asserting that the --</p> <p>18 A. I'm sorry. I'm not allowed to do that.</p> <p>19 MR. SWEETEN: Go ahead. You can ask your</p> <p>20 question again.</p> <p>21 Q. What was the basis for your statement to the Texas</p> <p>22 Tribune that tribal ID do not have a single standardized form?</p> <p>23 MR. SWEETEN: You can discuss a public statement,</p> <p>24 but you can't at the same time reveal thoughts, mental</p> <p>25 impressions or opinions about the legislation. So I think that</p>	<p style="text-align: right;">256</p> <p>1 A. But on this document it says there are three tribes in</p> <p>2 Texas.</p> <p>3 Q. And so there would only be three forms of ID that we</p> <p>4 are talking about, right?</p> <p>5 A. There are three tribes in Texas. I don't know if they</p> <p>6 offer different IDs for different members of the tribe. I don't</p> <p>7 know.</p> <p>8 Q. So, again, why does S.B. 14 permit military ID but not</p> <p>9 tribal ID?</p> <p>10 MR. SWEETEN: Don't reveal thoughts, mental</p> <p>11 impressions or opinions about the legislation.</p> <p>12 A. Privileged.</p> <p>13 Q. Okay. If we can move on to Amendment 34, which is</p> <p>14 House Journal Page 987. Take a quick look.</p> <p>15 A. Okay.</p> <p>16 Q. Have you taken a look?</p> <p>17 A. Amendment 34 would have rendered the act unenforceable</p> <p>18 if it did not comply with Section 5, Section 203 or Section</p> <p>19 4(f)(4) of the Voting Rights Act, correct.</p> <p>20 A. Yes.</p> <p>21 Q. Now, you earlier stated that the Texas Legislature</p> <p>22 considered, as part of its process, why -- whether a law</p> <p>23 complies with federal law and federal Voting Rights Act,</p> <p>24 correct?</p> <p>25 A. Say that one more time.</p>

<p style="text-align: right;">257</p> <p>1 Q. You earlier testified that as part of the legislative</p> <p>2 process you would consider whether a law complied with federal</p> <p>3 law and the federal Voting Rights Act, correct?</p> <p>4 MR. SWEETEN: Objection. I'm not sure that</p> <p>5 accurately characterizes the specific testimony.</p> <p>6 A. And I agree. I don't remember specifically what I</p> <p>7 said.</p> <p>8 Q. Earlier in the deposition you said that during the</p> <p>9 drafting process you depended on the Texas Legislative Council</p> <p>10 to ensure that laws complied with federal law and the federal</p> <p>11 Voting Rights Act.</p> <p>12 A. I agree I said something similar to that, yes.</p> <p>13 Q. But -- and on Page 988 near the top, your third</p> <p>14 statement, you said, "As I said before, this is a federal issue</p> <p>15 to be decided by the federal courts. This isn't for us in the</p> <p>16 Texas Legislature to discuss right now."</p> <p>17 A. That was taking a statement out of context from the</p> <p>18 record.</p> <p>19 Q. I'm asking you if you made that statement. And if</p> <p>20 you'd like, I can ask you if you'd like to explain that</p> <p>21 statement in context.</p> <p>22 MR. SWEETEN: Let's just answer the question he's</p> <p>23 asking. I think he's asking did you make that statement.</p> <p>24 Q. Did you make that statement?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">259</p> <p>1 Q. If we can turn to Amendment No. 35 is which is on Page</p> <p>2 991. And that only states that Section 203 and 14(f)(4), which</p> <p>3 probably should be 4(f)(4) of the Voting Rights Act should be</p> <p>4 applied to this section; is that correct?</p> <p>5 A. That's what it says.</p> <p>6 Q. Are you aware of what Section 203 and Section 4(f)(4)</p> <p>7 of the Voting Rights Act do?</p> <p>8 A. Not off the top of my head.</p> <p>9 Q. Can I represent to you that those are the language</p> <p>10 minority provisions of the Voting Rights Act that require</p> <p>11 certain documents to be translated into languages spoken by U.S.</p> <p>12 citizens within the state?</p> <p>13 A. Okay.</p> <p>14 Q. What was your understanding of the effect of this</p> <p>15 amendment to apply those two provisions to the bill?</p> <p>16 MR. SWEETEN: That would ask her to reveal</p> <p>17 thoughts, mental impressions, opinions about the legislation.</p> <p>18 That would be legislatively privileged for her to provide that</p> <p>19 answer.</p> <p>20 A. And it's privileged, and I wasn't involved in that</p> <p>21 discussion.</p> <p>22 Q. Why did you vote against the amendment?</p> <p>23 MR. SWEETEN: Don't answer.</p> <p>24 A. It's privileged.</p> <p>25 Q. Do you believe that materials that must be printed</p>
<p style="text-align: right;">258</p> <p>1 Q. Would you like to provide context -- could you provide</p> <p>2 context for that statement?</p> <p>3 MR. SWEETEN: I'm going to instruct her not to</p> <p>4 reveal thoughts, mental impressions or opinions about the</p> <p>5 legislation. She can refer to matters of the public record.</p> <p>6 A. I think during the debate it was discussed that the</p> <p>7 legislation is drafted to comply with the Voting Rights Act.</p> <p>8 Q. But you stated that this was not an issue for the</p> <p>9 Texas Legislature, it was an issue for the federal courts,</p> <p>10 correct?</p> <p>11 A. The debate that he wanted to have in the record --</p> <p>12 MR. SWEETEN: Just answer his question. Did you</p> <p>13 state that?</p> <p>14 A. Yes, I stated that.</p> <p>15 Q. I'll ask you, since your counsel did not object or</p> <p>16 provide an objection to stop your testimony, I would ask you to</p> <p>17 complete the statement that you were making.</p> <p>18 A. In this debate that we were having, he wanted to</p> <p>19 debate the need for the Voting Rights Act. And I told him I</p> <p>20 don't think this is the place to debate that.</p> <p>21 Q. Okay. Why did you vote against this amendment?</p> <p>22 MR. SWEETEN: Don't answer the question. It</p> <p>23 would reveal thoughts, mental impressions, opinions about the</p> <p>24 legislation and is legislatively privileged.</p> <p>25 A. Privileged.</p>	<p style="text-align: right;">260</p> <p>1 under S.B. 14 should be printed only in English?</p> <p>2 MR. SWEETEN: The question is does she currently</p> <p>3 believe that or did she believe it at the time of the passage?</p> <p>4 Q. Let's say currently.</p> <p>5 A. Okay. I carried a bill last session that said that</p> <p>6 the Secretary of State must do the translation because now, in</p> <p>7 Harris County, we translate in English, Spanish, Vietnamese and</p> <p>8 Mandarin. And other counties are required, since the census, to</p> <p>9 print their ballots in additional language. So I would say that</p> <p>10 your statement that you're making or asserting that I believe is</p> <p>11 not true.</p> <p>12 Q. It was a question.</p> <p>13 A. Yeah.</p> <p>14 Q. So the answer is no?</p> <p>15 MR. SWEETEN: Dan, I need to go to the bathroom,</p> <p>16 so I'll be back. We can take a very short break.</p> <p>17 MR. FREEMAN: Yeah. I'm almost done.</p> <p>18 (Recess from 7:04 p.m. to 7:06 p.m.)</p> <p>19 Q. With regard to the language requirements that you just</p> <p>20 discussed in Harris County, are you aware that Section 203 of</p> <p>21 the Federal Voting Rights Act requires Harris County to print</p> <p>22 those materials in those languages?</p> <p>23 A. I think that you said that earlier.</p> <p>24 Q. And so, let me just reiterate my question. Why did</p> <p>25 you then vote against an amendment that would simply articulate</p>



<p style="text-align: right;">261</p> <p>1 that Section 203 applies to S.B. 14?</p> <p>2 MR. SWEETEN: To not reveal thoughts, mental</p> <p>3 impressions, opinions about legislation, why you voted for</p> <p>4 something. Don't reveal communications that you've had. Those</p> <p>5 are legislatively privileged.</p> <p>6 A. Privileged.</p> <p>7 Q. Okay. Let's move to Amendment 50, Page 1009 on to</p> <p>8 1010. If you can take a quick look through it. Okay. So</p> <p>9 Amendment 50 would have simply reimbursed the costs for poor</p> <p>10 individuals to travel to obtain ID, correct?</p> <p>11 A. Yes.</p> <p>12 Q. Why did you vote against this amendment?</p> <p>13 MR. SWEETEN: Objection. It would require her to</p> <p>14 reveal thoughts, mental impressions, opinions about legislation</p> <p>15 and would therefore be legislatively privileged.</p> <p>16 A. Privileged.</p> <p>17 Q. Isn't it the case that the majority of the individuals</p> <p>18 who live below the poverty line in Texas are members of racial</p> <p>19 or language minority groups?</p> <p>20 A. I don't know that I know that for sure.</p> <p>21 Q. Do you know whether members of racial or language</p> <p>22 minority groups are more likely to live below the federal</p> <p>23 poverty line in Texas than Anglos?</p> <p>24 MR. SWEETEN: Objection, asked and answered.</p> <p>25 A. I don't know that I know what the breakdown is.</p>	<p style="text-align: right;">263</p> <p>1 minority groups or language minority groups were</p> <p>2 disproportionately -- or a larger share of the group of people</p> <p>3 who voted by provisional ballot, because they didn't have the</p> <p>4 necessary ID under S.B. 14 and then did not return, for whatever</p> <p>5 reason, with the necessary ID in the time frame that S.B. 14</p> <p>6 allows, and, thus, as a result, that that group of people didn't</p> <p>7 have their ballots counted?</p> <p>8 A. You want me to answer a hypothetical. We have no</p> <p>9 evidence that that's going to happen.</p> <p>10 Q. But if it did happen, would it concern you?</p> <p>11 A. I'm --</p> <p>12 MR. SWEETEN: Objection, calls for speculation,</p> <p>13 assuming facts not in evidence.</p> <p>14 A. I can't answer a hypothetical.</p> <p>15 Q. Okay. Let's move on to Amendment 55, which is on Page</p> <p>16 1016. Take a quick look.</p> <p>17 A. 1016. Okay.</p> <p>18 Q. Amendment 55. Under Amendment 55, the Secretary of</p> <p>19 State is required to determine whether the majority of voters</p> <p>20 casting provisional ballots because they lacked photo IDs were</p> <p>21 members of minority groups, and, if so, if that were the case,</p> <p>22 would then allow the use of voter registration certificates,</p> <p>23 correct?</p> <p>24 A. That's what it says.</p> <p>25 Q. Why did you vote against this amendment?</p>
<p style="text-align: right;">262</p> <p>1 Q. Okay. Let's move to Amendment 54 on Page 1015. We</p> <p>2 can take a quick look.</p> <p>3 A. I'm sorry. I didn't know you were waiting on me.</p> <p>4 Q. No worries. So Amendment 54 would require the</p> <p>5 Secretary of State to determine who is prevented from voting and</p> <p>6 who filed provisional ballots that were eventually not counted</p> <p>7 because the individual did not later show up to provide the</p> <p>8 necessary ID and would require the Secretary of State to record</p> <p>9 that by demographics, correct?</p> <p>10 A. Yes, that's what it says.</p> <p>11 Q. Why did you move to table this amendment?</p> <p>12 MR. SWEETEN: Objection. It would ask her to</p> <p>13 reveal thoughts, mental impressions, opinions about legislation</p> <p>14 and it is therefore legislatively privileged.</p> <p>15 A. It's privileged.</p> <p>16 Q. Would it concern you if members of racial or language</p> <p>17 minority groups were disproportionately likely to show up at the</p> <p>18 polling place lacking the necessary ID and then later not return</p> <p>19 to show ID to have their provisional ballot counted and, thus,</p> <p>20 not have their ballot counted at all?</p> <p>21 MR. SWEETEN: Are you asking her would it concern</p> <p>22 her now?</p> <p>23 MR. FREEMAN: Yes.</p> <p>24 A. Could you rephrase the question.</p> <p>25 Q. Sure. Would it concern you if members of racial</p>	<p style="text-align: right;">264</p> <p>1 MR. SWEETEN: Objection. It would ask her to</p> <p>2 reveal her thoughts, mental impressions, opinions about</p> <p>3 legislation and, therefore, falls under the legislative</p> <p>4 privilege.</p> <p>5 A. Privileged.</p> <p>6 Q. Now, you said on the record -- and it's on Page 1018</p> <p>7 -- in response to arguments in favor of this amendment that in</p> <p>8 Crawford V. Marion County Board of Elections that The Court</p> <p>9 ruled that the requirement to produce photo ID imposes only a</p> <p>10 limited burden on the voter and justifies by the State's</p> <p>11 interest in restoring confidence in elections and deferring</p> <p>12 fraud, correct?</p> <p>13 A. Where you are reading that?</p> <p>14 Q. On Page 1018. Top of the page.</p> <p>15 A. I did. That's what the record reflects.</p> <p>16 Q. And I know we discussed this a little bit earlier, but</p> <p>17 are you aware of the nature of the legal dispute in Crawford?</p> <p>18 A. It was not exactly off the top of my head. I've</p> <p>19 reviewed the case. It was the case on the voter ID for Indiana.</p> <p>20 Q. It was constitutionality, correct?</p> <p>21 A. I guess. I can't remember.</p> <p>22 Q. But it wasn't discrimination on the basis of race,</p> <p>23 right?</p> <p>24 A. I can't answer that. I don't know.</p> <p>25 Q. If I can represent to you that it was not --</p>

<p style="text-align: right;">265</p> <p>1 A. Okay.</p> <p>2 Q. -- discrimination on the basis of race.</p> <p>3 A. I trust you.</p> <p>4 Q. I appreciate that. We've spent a lot of time</p> <p>5 together.</p> <p>6 How was your response concerning Crawford responsive</p> <p>7 to concerns about racial discrimination?</p> <p>8 MR. SWEETEN: You're asking her to interpret</p> <p>9 matters that were part of the legislative record. I'll let her</p> <p>10 refer to the record in answering that question. But I think to</p> <p>11 some extent you're asking her to reveal thoughts, mental</p> <p>12 impressions, opinions about the legislation. So to the extent</p> <p>13 you can refer to public documents, feel free to do so.</p> <p>14 Otherwise, do not reveal those. They are subject to the</p> <p>15 legislative privilege.</p> <p>16 A. The record is talking about if -- it says in here that</p> <p>17 I'm not a big fan of talk radio. I don't listen to it, and I</p> <p>18 don't believe everything they say. So that goes to mention what</p> <p>19 we talked about earlier. It talks about the decision. And</p> <p>20 they're asking me questions, and I'm answering the questions. I</p> <p>21 don't recall.</p> <p>22 MR. FREEMAN: I'll object to that as</p> <p>23 nonresponsive.</p> <p>24 Q. But I'll assume the remaining answer to my question</p> <p>25 would be privileged; is that correct?</p>	<p style="text-align: right;">267</p> <p>1 through 64. Just skim through.</p> <p>2 (Exhibit No. 26 marked)</p> <p>3 A. And this is from the floor or --</p> <p>4 Q. This is a transcript of the March 23rd floor debate.</p> <p>5 This is Volume III. This is Day 40.</p> <p>6 A. How far do you want me to read through?</p> <p>7 Q. Until you move to table.</p> <p>8 A. Okay.</p> <p>9 Q. Which I believe is Page 64.</p> <p>10 MR. SWEETEN: You've gone past it, I think.</p> <p>11 A. It goes to Lamar Davis after that. Do you have Volume</p> <p>12 II or Volume III?</p> <p>13 MR. SWEETEN: III.</p> <p>14 A. And 63 is talking about studies and 64 is taking about</p> <p>15 statics. And then it seems that Yvonne Davis and Anchia have a</p> <p>16 back-and-forth dialogue to 65, 66.</p> <p>17 Q. You move to table on Page 69. Do you see that?</p> <p>18 A. Do I need to know what all this is?</p> <p>19 Q. If you can just skim through and see -- do you say</p> <p>20 anything prior to simply moving to table?</p> <p>21 A. I'm on 71 and still don't see where I move to table.</p> <p>22 Q. It's the top of 69. Will you accept my representation</p> <p>23 that --</p> <p>24 MR. SWEETEN: She's found it.</p> <p>25 Q. Do you move to table without responding to any of</p>
<p style="text-align: right;">266</p> <p>1 A. Yes, sir.</p> <p>2 Q. Okay. Last one. Amendment No. 58 on Page 1021, if</p> <p>3 you could take a quick look.</p> <p>4 A. Is this the amendment?</p> <p>5 Q. Amendment 58. It's on Page 1021. Strike Section 25</p> <p>6 and substitute a new Section 25. Do you see that?</p> <p>7 A. Okay. Yes.</p> <p>8 Q. And so Amendment 58 essentially required a study by</p> <p>9 county and according to ethnicity of access to photo ID along</p> <p>10 with a analysis of potential impact on voter turnout, correct?</p> <p>11 A. That's what it says.</p> <p>12 Q. Why did you move to table that amendment?</p> <p>13 MR. SWEETEN: Don't answer. The question would</p> <p>14 ask you to reveal thoughts, mental impressions, opinions about</p> <p>15 legislation. Therefore, it's subject to the legislative</p> <p>16 privilege.</p> <p>17 A. I would say it's privileged if there's no more record</p> <p>18 than this.</p> <p>19 Q. Do you recall Representative Anchia asserting that</p> <p>20 such a study should have been conducted prior to consideration</p> <p>21 of this bill?</p> <p>22 A. I don't recall that specifically. It doesn't mean it</p> <p>23 didn't happen.</p> <p>24 Q. If I can just quickly put this in front of you. This</p> <p>25 should be U.S. 26. If you can turn very quickly to Page 62</p>	<p style="text-align: right;">268</p> <p>1 Representative Anchia's statements?</p> <p>2 A. That's what it shows.</p> <p>3 Q. Why did you move to table without responding to any of</p> <p>4 Representative Anchia's statements?</p> <p>5 MR. SWEETEN: I'm going to object. The question</p> <p>6 calls for her to reveal thoughts, mental impressions, opinions</p> <p>7 about the legislation. She can answer to the extent that the</p> <p>8 public record reveals information responsive. Otherwise, I'm</p> <p>9 going to instruct her not to answer on the basis of legislative</p> <p>10 privilege.</p> <p>11 A. It's privileged.</p> <p>12 Q. Okay. And do you believe that such information was</p> <p>13 not necessary to support the bill concerning the effect of the</p> <p>14 bill in terms of possession of ID based on race?</p> <p>15 MR. SWEETEN: Same objection.</p> <p>16 A. Privileged.</p> <p>17 Q. We are done with amendments. If you can mark this as</p> <p>18 U.S. 27.</p> <p>19 (Exhibit No. 27 marked)</p> <p>20 Q. This is a declaration that you signed with regard to</p> <p>21 an assertion of privilege in this case. Can you take a quick</p> <p>22 look. Are you familiar with that document?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Did you meet with the Office of the Texas Attorney</p> <p>25 General prior to receiving a copy of this document?</p>

<p style="text-align: right;">269</p> <p>1 A. No.</p> <p>2 Q. Who wrote this document?</p> <p>3 A. I received it from my chief of staff.</p> <p>4 Q. Did you write this document?</p> <p>5 A. I never asked him --</p> <p>6 Q. Are you aware of whether he wrote this document?</p> <p>7 A. I don't know. We discussed the issues that should go</p> <p>8 into the document, but --</p> <p>9 Q. Did your chief of staff draft this document?</p> <p>10 A. I didn't ask him.</p> <p>11 Q. But did you have a conversation about this document</p> <p>12 with your chief of staff before you received the document?</p> <p>13 A. Yes.</p> <p>14 Q. And did you have a conversation with the Office of the</p> <p>15 Texas Attorney General before you received this document?</p> <p>16 A. No.</p> <p>17 Q. Are you aware of any supporter of the bill who is not</p> <p>18 asserting attorney/client privilege, legislative privilege, and</p> <p>19 any other privilege available under state or federal law to</p> <p>20 protect from disclosures in this case?</p> <p>21 MR. SWEETEN: When you're answering that</p> <p>22 question, don't reveal any communications that you've had with</p> <p>23 our office or meetings or other discussions.</p> <p>24 A. I'm not aware.</p> <p>25 Q. Has anything changed since you signed this</p>	<p style="text-align: right;">271</p> <p>1 constituents, that would be legislatively privileged.</p> <p>2 A. That's privileged.</p> <p>3 Q. And have you ever heard a legislator who voted in</p> <p>4 favor of S.B. 14 explain that voter ID would prevent any</p> <p>5 minority registered voter from voting?</p> <p>6 MR. SWEETEN: Same instruction.</p> <p>7 A. Privileged.</p> <p>8 Q. Now, distinctly with regard to the purpose of the</p> <p>9 bill, do you believe that S.B. 14 has no purpose to reduce the</p> <p>10 number of Hispanic voters who will be able to vote in elections</p> <p>11 in Texas?</p> <p>12 MR. SWEETEN: This question has been asked and</p> <p>13 answered. I think -- and we've had a discussion at lunch</p> <p>14 regarding purpose and questions about that. I will let her</p> <p>15 discuss what she believes the purpose of the bill is. We will</p> <p>16 allow that. She will not be able to talk about what other</p> <p>17 people think, what other legislators' opinions are, but I will</p> <p>18 allow her to testify as to the purpose of the bill.</p> <p>19 Q. In the context -- I am asking in the context of all</p> <p>20 the aspects of the legislative process that led up to passage of</p> <p>21 the bill, with regard to the purpose of the bill in its</p> <p>22 complete, all provisions, do you believe that S.B. 14 has no</p> <p>23 purpose to reduce the number of Hispanic registered voters who</p> <p>24 will be able to vote in elections in Texas?</p> <p>25 MR. SWEETEN: I think the way you've asked this</p>
<p style="text-align: right;">270</p> <p>1 declaration? Do you stand by everything in the declaration</p> <p>2 today?</p> <p>3 MR. SWEETEN: Take your time to the extent you</p> <p>4 need to answer his question.</p> <p>5 A. Yes.</p> <p>6 Q. The next two questions I'm going to ask concern</p> <p>7 conversations that didn't happen on the House floor. I'm</p> <p>8 curious about what gets said in members' offices at lunch,</p> <p>9 fundraisers, etcetera. Have you ever heard a legislator in</p> <p>10 those contexts in any other who voted in favor of S.B. 14 state</p> <p>11 that a photo ID requirement would prevent any registered voter</p> <p>12 from voting?</p> <p>13 MR. SWEETEN: The question -- the scope of the</p> <p>14 question is very broad. I'm not clear as to what -- are you</p> <p>15 talking at matters prior to the passage of it, or can you be</p> <p>16 specific as to what you're asking. It will help me in knowing</p> <p>17 whether to assert privileges to the question.</p> <p>18 Q. I'm asking in any circumstance, private circumstance,</p> <p>19 so off the floor, have you ever heard any legislator who voted</p> <p>20 in favor of S.B. 14 state that S.B. 14 would, in effect, prevent</p> <p>21 any registered voter from voting?</p> <p>22 MR. SWEETEN: I'm going to instruct you not to</p> <p>23 answer. He has not limited the question. To the extent this</p> <p>24 question could reveal communications with legislators,</p> <p>25 legislation staff, state agencies, Texas Legislative Council or</p>	<p style="text-align: right;">272</p> <p>1 question, you're asking her to reveal matters up until the time</p> <p>2 of the passage of the bill that could include thoughts, mental</p> <p>3 impressions, discussions, communications with other legislators.</p> <p>4 I think your question as phrased is directly -- would require</p> <p>5 her to give information that is legislatively privileged. So</p> <p>6 I'm going to instruct her accordingly.</p> <p>7 MR. FREEMAN: Mr. Sweeten, can I ask, based on</p> <p>8 your understanding of the privilege, as you're asserting this</p> <p>9 privilege, do you believe there's a way to phrase this question</p> <p>10 that I can ask with regard to the purpose of the bill and with</p> <p>11 whether a particular purpose was a purpose of the bill that</p> <p>12 would ask for purpose but not intent, because you've agreed, I</p> <p>13 believe, that purpose is a permissible inquiry.</p> <p>14 MR. SWEETEN: We're attempting to accommodate you</p> <p>15 based upon the letter that we received earlier today and our</p> <p>16 discussions. We also are very cognizant of her legislative</p> <p>17 privilege. Again, I can allow her to testify about what she</p> <p>18 believes the purpose -- what the purpose of the bill. She can</p> <p>19 testify to that. We'll let her do that.</p> <p>20 MR. FREEMAN: Okay.</p> <p>21 A. As I've answered earlier and as I stated on the floor</p> <p>22 a number of times and in committee, the purpose of S.B. 14 was</p> <p>23 to increase and improve the integrity of the election process.</p> <p>24 Q. And I'm asking whether there was any secondary</p> <p>25 subsidiary purpose behind the bill in any aspect that was</p>

<p style="text-align: right;">273</p> <p>1 motivating the bill, not just on your part, but on the part of</p> <p>2 the legislators advancing the bill.</p> <p>3 A. I can't answer for anyone other than myself. The</p> <p>4 purpose of S.B. 14, as I've stated over and over, was to improve</p> <p>5 the integrity of the election process.</p> <p>6 Q. Let's wrap this up then. Are there any answers you</p> <p>7 wish to change from what you said earlier?</p> <p>8 A. Heck, I can't even remember past the last five</p> <p>9 questions. I'm stuck in the amendments.</p> <p>10 Q. It's been a long day. I appreciate your time. Any</p> <p>11 information that you didn't recall before that you now recall?</p> <p>12 A. No, sir.</p> <p>13 Q. Anything you'd like to add so we can understand your</p> <p>14 questions more clearly?</p> <p>15 MR. SWEETEN: Let me take one minute with her.</p> <p>16 (Brief off-record discussion)</p> <p>17 THE WITNESS: The only thing that I might want to</p> <p>18 add is that I had met with the AG's office and there was</p> <p>19 discussion about --</p> <p>20 MR. SWEETEN: Don't talk about what it was about.</p> <p>21 You met with the AG's Office.</p> <p>22 THE WITNESS: We met with the AG's office prior</p> <p>23 to signing this affidavit.</p> <p>24 Q. Prior to signing?</p> <p>25 A. Uh-huh.</p>	<p style="text-align: right;">275</p> <p>1 Q. What did you mean by a barrage of inaccurate attacks?</p> <p>2 MR. SWEETEN: You can reference the public</p> <p>3 statement made. Don't reference your mental impressions about</p> <p>4 the passage of Senate Bill 14.</p> <p>5 MR. ROSENBERG: Mr. Sweeten, let me respond to</p> <p>6 that because I respectfully request that you withdraw that</p> <p>7 objection. We're dealing with a public statement that</p> <p>8 Ms. Harless made. If it happens to have been based on</p> <p>9 privileged information, then I would submit that she's waived</p> <p>10 that privileged information. We have the right to inquire as to</p> <p>11 the entire basis.</p> <p>12 MR. SWEETEN: I'm going to let her discuss</p> <p>13 matters of the public record, including this statement. She</p> <p>14 hasn't waived and she hasn't revealed her thoughts, mental</p> <p>15 impressions or opinions about the legislation that preceded</p> <p>16 this. She's made this statement. She can answer questions</p> <p>17 about the statement. I will allow that to occur.</p> <p>18 Q. My question remains, what do you mean by a barrage of</p> <p>19 inaccurate attacks?</p> <p>20 A. As we debated in the record, there were some</p> <p>21 inaccuracies in information that was being repeated. And I</p> <p>22 can't name specifically.</p> <p>23 Q. Can you name any one?</p> <p>24 A. Not off the top of my head.</p> <p>25 Q. Can you name who was making these inaccurate attacks?</p>
<p style="text-align: right;">274</p> <p>1 Q. But did you meet with the AG's office prior to</p> <p>2 receiving a copy of the draft?</p> <p>3 A. I don't know that I did.</p> <p>4 Q. Okay.</p> <p>5 A. I can't remember.</p> <p>6 MR. FREEMAN: Okay. I appreciate the correction.</p> <p>7 Thank you. And thank you for your testimony. I want to state</p> <p>8 that the deposition is left open pending decisions on the, I</p> <p>9 believe as Mr. Sweeten said, 300 assertions of privilege as well</p> <p>10 as over various documents and other testimony, and I now pass</p> <p>11 the witness to Mr. Rosenberg.</p> <p>12 THE WITNESS: Thank you.</p> <p>13 EXAMINATION</p> <p>14 BY MR. ROSENBERG:</p> <p>15 Q. I'm obviously not going to repeat everything that</p> <p>16 Mr. Freeman did. Just a few questions, Representative Harless.</p> <p>17 And thanks for your patience during the day. Can we show</p> <p>18 Representative Harless U.S. 19. Is that the op-ed piece? And</p> <p>19 looking at the first paragraph, the last sentence actually says</p> <p>20 -- second paragraph -- the first paragraph is one sentence, "Yet</p> <p>21 as the U.S. Department of Justice reviews the law for</p> <p>22 preclearance under the Voting Rights Act, a barrage of</p> <p>23 inaccurate attacks has been levied against our election</p> <p>24 integrity bill that must be corrected." Do you see that?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">276</p> <p>1 A. No.</p> <p>2 Q. Turn your attention to the second page, the paragraph</p> <p>3 that's going to be a little hard to read because it's</p> <p>4 overwritten, but I'll try to read it and you tell me if I'm</p> <p>5 accurate. "While an ID requirement may place a burden on</p> <p>6 voters;" do you see that?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And then you go on to quote from Justice Stevens. Do</p> <p>9 you see that?</p> <p>10 A. Yes, sir.</p> <p>11 Q. What do you mean by burden?</p> <p>12 A. I honestly can't tell you what emotions I was going</p> <p>13 through at the time I wrote this.</p> <p>14 Q. Well, let me ask you this.</p> <p>15 A. And what had prompted up to it.</p> <p>16 Q. Do you think it's a burden -- did you think it was a</p> <p>17 burden on voters who did not have a photo ID to get a photo ID?</p> <p>18 A. I think the record that I've talked about over and</p> <p>19 over a number of times is that we provided for those that do not</p> <p>20 have one of the approved forms of ID to have an opportunity to</p> <p>21 get a free ID, and that that's no more cumbersome in the record</p> <p>22 than the act of voting.</p> <p>23 Q. Well, if someone has a photo ID and someone does not</p> <p>24 have a photo ID, you would admit that there is at least some</p> <p>25 burden on the fact that the person who does not have a photo ID</p>

<p style="text-align: right;">277</p> <p>1 to go and get a photo ID; is that correct?</p> <p>2 MR. SWEETEN: You can answer in the context of</p> <p>3 the public statement. Don't reveal privileged information.</p> <p>4 MR. ROSENBERG: Again, I disagree with that,</p> <p>5 Mr. Sweeten, and would ask you to withdraw that objection in the</p> <p>6 context of a statement that Representative Harless made in</p> <p>7 public.</p> <p>8 MR. SWEETEN: If you're asking her about the</p> <p>9 public statement, I've again said that she can answer questions</p> <p>10 about that.</p> <p>11 MR. ROSENBERG: I'm asking her what she meant by</p> <p>12 something she wrote in public.</p> <p>13 A. I can't tell you what every word that I wrote meant at</p> <p>14 the time that I wrote it, which was November the 14th of 2011.</p> <p>15 Q. I understand that. That's why I'm only asking about</p> <p>16 one word, burden.</p> <p>17 A. I don't know what you want me to answer. I'm not sure</p> <p>18 what you're asking.</p> <p>19 Q. Let me ask it again.</p> <p>20 A. Do you want me to define what burden means?</p> <p>21 Q. In the context of how you were using it in this</p> <p>22 article, yes.</p> <p>23 A. Well, I'm not -- I said while an ID requirement may</p> <p>24 place a burden. It may. I don't know that it will.</p> <p>25 Q. What kind of burden were you talking about?</p>	<p style="text-align: right;">279</p> <p>1 A. That's not what I said. I think there was members</p> <p>2 that talked about that people had to travel to motor vehicle</p> <p>3 divisions, but we don't know if there are actually any of those</p> <p>4 people that don't already have one of the approved forms of ID</p> <p>5 or that aren't already eligible to vote by ballot by mail</p> <p>6 whether they're senior or disabled. So I can't speculate on if</p> <p>7 that person actually exists.</p> <p>8 Q. Was there also discussion in the public record during</p> <p>9 the debate in S.B. 14 that people who were minorities were more</p> <p>10 likely to be further away from motor vehicle facilities than</p> <p>11 non-minorities?</p> <p>12 A. I don't recall that discussion. It could be possible.</p> <p>13 But if you don't live close to a DPS station, you don't live</p> <p>14 close to it whether you're Caucasian or a minority.</p> <p>15 Q. Was there any discussion in the public record as to</p> <p>16 whether or not minorities would be less likely to have</p> <p>17 transportation to get to motor vehicle facilities than</p> <p>18 non-minorities?</p> <p>19 A. I don't recall the exact testimony.</p> <p>20 Q. Would you agree that someone who did not have motor</p> <p>21 vehicle transportation or public transportation to get to a</p> <p>22 motor vehicle facility and who did not have a driver's license</p> <p>23 would have more of a burden on that person than someone who</p> <p>24 already did have a driver's license?</p> <p>25 MR. SWEETEN: Objection, asked and answered, but</p>
<p style="text-align: right;">278</p> <p>1 A. That someone shows a photo ID when they vote.</p> <p>2 Q. How about that someone has to go and get a photo ID if</p> <p>3 they don't already have one? Would that be a burden?</p> <p>4 A. I don't know that that's what I was referring to at</p> <p>5 the time that I wrote this.</p> <p>6 Q. Well, if someone had to go to a motor vehicle facility</p> <p>7 to get either a driver's license or a voter identification,</p> <p>8 would that be a burden that someone who already had a driver's</p> <p>9 license or a voter identification would not have?</p> <p>10 A. I don't think that's what I was discussing in this</p> <p>11 statement.</p> <p>12 Q. Would you agree that would be a burden, though?</p> <p>13 A. No, I don't.</p> <p>14 Q. Well, what if someone had to drive 100 miles to the</p> <p>15 motor vehicle facility as opposed to someone who already had a</p> <p>16 driver's license or a photo identification? Would you agree</p> <p>17 that that would be more of a burden on the person who had to</p> <p>18 drive the 100 miles than the person who did not have to drive</p> <p>19 the 100 miles?</p> <p>20 A. I don't think that that's part of the debate or the</p> <p>21 record and it's -- you know, what one person may think is a</p> <p>22 burden I may not think is a burden.</p> <p>23 Q. Is it your testimony that there was nothing in the</p> <p>24 public record about the burden on people who had to travel to --</p> <p>25 long distances to motor vehicle facilities?</p>	<p style="text-align: right;">280</p> <p>1 go ahead.</p> <p>2 MR. ROSENBERG: Not quite, but go ahead.</p> <p>3 A. I don't know that that person doesn't already have one</p> <p>4 of the other approved forms of ID. I don't know that they have</p> <p>5 to get the free ID.</p> <p>6 Q. Let's assume that that person has none of the other</p> <p>7 IDs.</p> <p>8 A. I'm not going to assume. I'm not going to assume that</p> <p>9 some person may exist out there.</p> <p>10 Q. Is it your testimony that there is no one who does not</p> <p>11 have any of the photo IDs under S.B. 14?</p> <p>12 A. I've never said that in testimony.</p> <p>13 Q. Was there any analysis or study done to see how many</p> <p>14 individuals did not have the requisite photo ID during the</p> <p>15 consideration of S.B. 14?</p> <p>16 MR. SWEETEN: Do not reveal thoughts, mental</p> <p>17 impressions, opinions about legislation or communications that</p> <p>18 you've had with legislators, legislative staff, state agencies,</p> <p>19 Texas Leg Council or constituents. You can refer to the public</p> <p>20 record.</p> <p>21 A. That's privileged.</p> <p>22 Q. Do you agree that there are people who do not have a</p> <p>23 birth certificate in Texas?</p> <p>24 A. That's not part of the record.</p> <p>25 Q. Do you think that's an important consideration in</p>

<p style="text-align: right;">281</p> <p>1 terms of whether or not there are people who might be burdened</p> <p>2 by the requirements of S.B. 14?</p> <p>3 MR. SWEETEN: Objection. You're calling for</p> <p>4 matters that are subject to the legislative privilege, which</p> <p>5 includes her thoughts, mental impressions about the bill. If</p> <p>6 you can answer based upon the public record, feel free to do so.</p> <p>7 A. Privileged.</p> <p>8 Q. Would you consider that a burden if someone did not</p> <p>9 have a birth certificate, did not have a driver's license, did</p> <p>10 not have any of the photo identification requirements under S.B.</p> <p>11 14?</p> <p>12 A. I don't recall that being discussed in the record.</p> <p>13 Q. Would you consider that a burden?</p> <p>14 A. I'm not going to answer that for privilege.</p> <p>15 Q. Would you consider that a burden today?</p> <p>16 A. Excuse me?</p> <p>17 Q. Would you today, sitting here today -- I'm not asking</p> <p>18 prior to S.B. 14. Sitting here today, would you consider that a</p> <p>19 burden?</p> <p>20 A. Consider?</p> <p>21 Q. Consider a person who does not have any of the photo</p> <p>22 identifications under S.B. 14 and who did not have a birth</p> <p>23 certificate in order to get one of the photo identifications</p> <p>24 under S.B. 14, would you consider that person more burdened than</p> <p>25 someone who already had a photo ID?</p>	<p style="text-align: right;">283</p> <p>1 Q. You think that it would be -- if a person needed to</p> <p>2 get a birth certificate in order to get the requisite photo</p> <p>3 identification under S.B. 14, paying \$22 would be an additional</p> <p>4 burden on that person not imposed on people who already have the</p> <p>5 photo ID?</p> <p>6 MR. SWEETEN: You're asking her questions about</p> <p>7 Senate Bill 14. You're asking her to reveal mental impressions,</p> <p>8 opinions about the legislation. That is squarely within the</p> <p>9 legislative privilege. That's what you're asking. Objection.</p> <p>10 A. I can't answer that.</p> <p>11 Q. Sitting here today, do you consider that more of a</p> <p>12 burden, someone who had to pay \$22 for a birth certificate in</p> <p>13 order to meet the requirements of S.B. 14?</p> <p>14 A. I can't speculate if that's a burden for that person.</p> <p>15 I don't know why they need the birth certificate. I don't know</p> <p>16 if that's their only form of ID. I can't speculate on that.</p> <p>17 Q. Do you think \$22 is an insignificant sum?</p> <p>18 A. I guess if I needed a birth certificate to get a job,</p> <p>19 I would not think it is. I don't know.</p> <p>20 Q. What's a Calendar committee or Calendars committee?</p> <p>21 A. It's the committee that bills go to in order to get</p> <p>22 set on the calendar for the floor.</p> <p>23 Q. And how long typically do bills sit in the Calendars</p> <p>24 committee awaiting placement on the calendar?</p> <p>25 A. I don't serve on that committee and I don't know if</p>
<p style="text-align: right;">282</p> <p>1 A. I can't answer that because I don't know that the</p> <p>2 birth certificate is the only form of ID that we discussed that</p> <p>3 you are required to have to get an ID. I don't know what the</p> <p>4 specific identification.</p> <p>5 Q. Well, if a person had none of the identification that</p> <p>6 are listed under S.B. 14 that would allow that person to get a</p> <p>7 driver's license or voter identification, would you consider</p> <p>8 that, sitting here today, more of a burden on that person than</p> <p>9 the person who already has the photo ID?</p> <p>10 A. I'm not going to speculate on if some person that</p> <p>11 meets all that criteria actually exists in Texas. I'm not going</p> <p>12 to speculate on it.</p> <p>13 Q. Have you looked to see or done any kind of analysis as</p> <p>14 to whether or not such a person exists in the State of Texas?</p> <p>15 MR. SWEETEN: Do not reveal your thoughts, mental</p> <p>16 impressions, opinions about legislation or efforts, including</p> <p>17 communications with legislators, legislative staff, state</p> <p>18 agencies, Texas Leg Council or constituents considering this</p> <p>19 bill.</p> <p>20 A. By answering that, I'd waive privilege, and I can't do</p> <p>21 that.</p> <p>22 Q. Do you know how much it costs to get a birth</p> <p>23 certificate?</p> <p>24 A. I think we talked today about it. And somewhere in</p> <p>25 the record somebody made mention of, I think \$22, I think.</p>	<p style="text-align: right;">284</p> <p>1 there's any specific time frame.</p> <p>2 Q. Can you give me a range?</p> <p>3 A. I can tell you I've had bills in Calendars for up to</p> <p>4 two or three months. I've had bills die in calendars. I don't</p> <p>5 know how they operate and what the priority is.</p> <p>6 Q. Do you know how long it took S.B. 14 from the time the</p> <p>7 committee report was received by the Calendars committee to the</p> <p>8 time it was placed in the calendar the first time?</p> <p>9 A. I don't remember. I saw something, but I don't</p> <p>10 remember.</p> <p>11 Q. If I suggested it was under two hours, would that be</p> <p>12 right?</p> <p>13 A. I couldn't answer that. I don't know.</p> <p>14 Q. Does it sound wrong?</p> <p>15 A. I don't know.</p> <p>16 Q. Do you recall what happened after S.B. 14 was placed</p> <p>17 on the calendar the first time?</p> <p>18 A. The very first time?</p> <p>19 Q. The very first time.</p> <p>20 A. When we got to the floor debate?</p> <p>21 Q. Right.</p> <p>22 A. We started the floor debate, and then there was a</p> <p>23 point of order called and it was upheld.</p> <p>24 Q. And it was because there was a material error in the</p> <p>25 bill?</p>



<p style="text-align: right;">285</p> <p>1 A. I don't recall exactly. I remember what the error</p> <p>2 was, but I don't know if it was in the bill or in the summary,</p> <p>3 the bill analysis. I don't know which one it was.</p> <p>4 Q. There's a reference to business days as opposed to</p> <p>5 calendar days?</p> <p>6 A. Exactly.</p> <p>7 Q. And what happened as a result of that? Point of order</p> <p>8 was sustained. What does that mean?</p> <p>9 MR. SWEETEN: We're talking about the process of</p> <p>10 Senate Bill 14. I want to remind her -- I don't want you to</p> <p>11 discuss mental impressions, opinions about legislation. You can</p> <p>12 talk about matters of public record. If that's what we're</p> <p>13 doing, you can provide that.</p> <p>14 MR. ROSENBERG: And just for the record, Mr.</p> <p>15 Sweeten, is it your position that testimony as to the regularity</p> <p>16 or irregularity of the procedure used in S.B. 14 is privileged?</p> <p>17 MR. SWEETEN: It depends on the way you ask it.</p> <p>18 And let's be very clear. When you asked about the calendar</p> <p>19 committee or, you know, how common it is, I've let her answer</p> <p>20 those questions. Let's not pretend that I've shut that down.</p> <p>21 That hasn't happened.</p> <p>22 MR. ROSENBERG: I haven't pretended anything.</p> <p>23 MR. SWEETEN: Okay. So you can ask her questions</p> <p>24 about procedure, about how it works generally. When it comes to</p> <p>25 Senate Bill 14 and her considerations of that legislation,</p>	<p style="text-align: right;">287</p> <p>1 agree?</p> <p>2 A. I don't know. I mean, as a member, we don't</p> <p>3 necessarily know when our bills get to Calendars. So I don't</p> <p>4 know what the time frame is.</p> <p>5 Q. Would you agree that a total of -- let's assume around</p> <p>6 80 minutes the first time it sat in the Calendar committee and</p> <p>7 the second time it sat in the Calendars committee is unusually</p> <p>8 short for a bill of this importance?</p> <p>9 A. I can't answer that. I don't know. I don't know. I</p> <p>10 don't serve on that committee. I don't know how long it usually</p> <p>11 takes them to get the paperwork and if there was a delay in the</p> <p>12 paperwork and after they get it how long. I don't know the</p> <p>13 procedures of how that committee operates.</p> <p>14 Q. And I assume, then, you can't name any other bill that</p> <p>15 sat in the committee that short?</p> <p>16 A. I can't. I don't know.</p> <p>17 Q. Were you a legislator in 2009?</p> <p>18 A. I was.</p> <p>19 Q. And this is really for Mr. Sweeten's edification. Why</p> <p>20 don't you tell him what chubbing is.</p> <p>21 A. Chubbing is when members take a bill to the -- it's</p> <p>22 filibuster, in essence, in the Texas House.</p> <p>23 Q. And do you recall something called a chub-a-thon?</p> <p>24 A. I remember I had legislation that died because of</p> <p>25 chubbing.</p>
<p style="text-align: right;">286</p> <p>1 that's where I'm asserting privilege. I'm not -- we'll leave it</p> <p>2 at that.</p> <p>3 MR. ROSENBERG: Can we have the question read</p> <p>4 back.</p> <p>5 THE REPORTER: Question: "And what happened as a</p> <p>6 result of that? Point of order was sustained. What does that</p> <p>7 mean?</p> <p>8 Q. We were at the point of order business day, calendar</p> <p>9 day.</p> <p>10 A. They called the point of order from the record. The</p> <p>11 parliamentarian ruled on the point of order, that it was -- I</p> <p>12 don't know the proper term -- a valid point of order, and the</p> <p>13 bill was -- I think I remember it being re-referred to</p> <p>14 committee.</p> <p>15 Q. Right. And after it was re-referred to committee went</p> <p>16 back to the Calendars committee, right?</p> <p>17 A. After it goes to committee -- the procedure is after a</p> <p>18 bill goes to committee, is voted out of committee, then it goes</p> <p>19 to Calendars to be voted out of Calendar.</p> <p>20 Q. And do you recall how long it sat in Calendars</p> <p>21 committee the second time?</p> <p>22 A. I don't.</p> <p>23 Q. If I suggested 12 minutes, would that be about right?</p> <p>24 A. I have no clue.</p> <p>25 Q. Can you -- that's pretty short, though; would you</p>	<p style="text-align: right;">288</p> <p>1 Q. And when was that?</p> <p>2 A. That was in 2009.</p> <p>3 Q. And that was on H.B. 112?</p> <p>4 A. No.</p> <p>5 Q. What was it?</p> <p>6 A. I think the chubbing, if I remember correctly, wasn't</p> <p>7 pertaining to the voter ID legislation. The chubbing was on our</p> <p>8 local and consent calendar. And local and consent calendar, the</p> <p>9 procedures typically are the member lays out the bill and it's a</p> <p>10 local issue. It's voted without debate. And they use the rules</p> <p>11 to talk each of those local and consent bills to where it bumped</p> <p>12 the general calendar to the next day.</p> <p>13 Q. Are you aware of when the use of the local and consent</p> <p>14 -- is it local consent calendar -- was used by a minority to</p> <p>15 block a previous photo ID bill.</p> <p>16 A. That was when the chubbing, but I'm not sure -- I</p> <p>17 don't know. I'm not exactly sure why the chubbing -- I can't</p> <p>18 remember exactly. I don't remember the voter ID bill getting on</p> <p>19 the calendar. Was it? You must know.</p> <p>20 Q. I can't answer questions. I can only ask them.</p> <p>21 Sorry.</p> <p>22 A. Yeah. I don't remember. I remember the chubbing on</p> <p>23 the local calendar. I knew that it was to stall, to get -- so</p> <p>24 we wouldn't get to the general calendar. But I don't know why.</p> <p>25 Q. You don't recall if it was specifically used in</p>

<p style="text-align: right;">289</p> <p>1 opposition to a photo ID bill?</p> <p>2 A. No. I don't know. I seem to vaguely remember</p> <p>3 conversation about that, but it was conversation.</p> <p>4 Q. Do you know what the two-thirds rule is?</p> <p>5 A. In the Senate?</p> <p>6 Q. Yes. Are you familiar with that?</p> <p>7 A. A little.</p> <p>8 Q. And what little?</p> <p>9 A. I'm just a little familiar of the debate by Dan</p> <p>10 Patrick and other members of the Senate about the value of the</p> <p>11 two-thirds and not.</p> <p>12 Q. Was there a change in the two-thirds rule?</p> <p>13 A. In the Senate on this?</p> <p>14 Q. Yes.</p> <p>15 A. It seemed like, if I remember correctly, that the</p> <p>16 members of the Senate voted to suspend the two-thirds for this</p> <p>17 one piece of legislation, but I can't say that for sure.</p> <p>18 Q. And the one piece of legislation was photo ID bill?</p> <p>19 A. I think it was S.B. 14.</p> <p>20 Q. Just a couple of tie-up points. You testified I think</p> <p>21 that there were conversations that you had with Catherine</p> <p>22 Engelbrecht?</p> <p>23 A. I heard Catherine's name.</p> <p>24 Q. Right. And I think you testified that there were</p> <p>25 conversations you had with Catherine Engelbrecht concerning the</p>	<p style="text-align: right;">291</p> <p>1 constituents.</p> <p>2 Q. Are you aware of any information contrary to the</p> <p>3 positions that you took on the floor concerning the impact of</p> <p>4 S.B. 14 on minorities that has not been made public?</p> <p>5 MR. SWEETEN: Do not reveal any thoughts, mental</p> <p>6 impressions, opinions about the legislation or communication</p> <p>7 with legislators, legislative staff, state agencies, Texas Leg</p> <p>8 Council or constituents.</p> <p>9 A. My opinions would be privileged.</p> <p>10 MR. ROSENBERG: Thank you very much. Told you</p> <p>11 I'd be quick.</p> <p>12 MR. SWEETEN: Let me make a statement on the</p> <p>13 record. We have gone seven hours with Representative Harless</p> <p>14 and she has sat here and we've answered a tremendous number of</p> <p>15 questions posed by Mr. Freeman and Mr. Rosenberg. So the</p> <p>16 gratuitous remark about objections, yes, but there were many</p> <p>17 objectionable questions asked of Representative Harless.</p> <p>18 MR. ROSENBERG: And just so my record is kept</p> <p>19 open, I'd like to keep my record open for the same reasons that</p> <p>20 Mr. Freeman stated. Thank you very much.</p> <p>21 (Deposition concluded at 7:11 p.m.)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">290</p> <p>1 photo ID bill; is that correct, without going into what the</p> <p>2 substance was?</p> <p>3 A. I think the conversation was after the bill was heard</p> <p>4 in committee she visited my office.</p> <p>5 Q. Right. I don't think you were asked and just to tie</p> <p>6 it up, can you tell me what you and she talked about?</p> <p>7 MR. SWEETEN: I'm going to object. It calls for</p> <p>8 matters that are legislatively privileged or communication</p> <p>9 specifically.</p> <p>10 Q. And similarly, I think you were asked about</p> <p>11 conversations with George Hammerline.</p> <p>12 A. Yes.</p> <p>13 Q. Concerning S.B. 14, correct?</p> <p>14 A. After the bill was heard in committee, George stopped</p> <p>15 by the office.</p> <p>16 MR. SWEETEN: Don't reveal communications or the</p> <p>17 substance of them. You can talk about the existence of the</p> <p>18 communication.</p> <p>19 Q. And now I will ask you something that your attorney</p> <p>20 will tell you you can't talk about. What were the substance of</p> <p>21 the conversation or conversations that you had with</p> <p>22 Mr. Hammerline concerning the photo ID bill?</p> <p>23 MR. SWEETEN: Objection. That's subject to the</p> <p>24 legislative privilege.</p> <p>25 A. And that's privileged communications with</p>	<p style="text-align: right;">292</p> <p>1 CHANGES AND SIGNATURE</p> <p>2</p> <p>3 WITNESS NAME _____ DATE OF DEPOSITION _____</p> <p>4 PAGE LINE CHANGE REASON</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

STATE OF TEXAS,	)	
Plaintiff	)	
	)	
VS.	)	
	)	
ERIC H. HOLDER, JR.,	)	
Attorney General of the	)	
United States of America,	)	
Defendant	)	
	)	
ERIC KENNIE, et al,	)	
Defendant-Intervenors,	)	
	)	
TEXAS STATE CONFERENCE OF	)	CASE NO. 1:12-cv-00128
NAACP BRANCHES, et al,	)	RMC-DST-RLW
Defendant-Intervenors,	)	Three-Judge Cost
	)	
TEXAS LEAGUE OF YOUNG	)	
VOTERS EDUCATION FUND, et	)	
al,	)	
Defendant-Intervenors,	)	
	)	
TEXAS LEGISLATIVE BLACK	)	
CAUCUS, et al,	)	
Defendant-Intervenors,	)	
	)	
VICTORIA RODRIGUEZ, et	)	
al,	)	
Defendant-Intervenors.	)	

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ORAL DEPOSITION OF  
REPRESENTATIVE PATRICIA HARLESS  
VOLUME 2  
JUNE 13, 2012

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Ken Owen & Associates, L.P.

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<p>1 ORAL EXAMINATION OF REPRESENTATIVE PATRICIA HARLESS,</p> <p>2 produced as a witness at the instance of for the</p> <p>3 DEFENDANT-INTERVENORS TEXAS NAACP and MALC, and duly</p> <p>4 sworn, was taken in the above-styled and numbered cause</p> <p>5 on the 13th of JUNE, 2012 from 10:04 a.m. to 11:08 a.m.,</p> <p>6 before MELISSA PARKHILL, CSR, in and for the State of</p> <p>7 Texas, reported by computer-assisted machine shorthand at</p> <p>8 209 W. 14th Street, First Floor Conference Room, Austin,</p> <p>9 Travis County, Texas, pursuant to the Federal Rules of</p> <p>10 Civil Procedure and the provisions stated on the record</p> <p>11 or attached hereto.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 INDEX</p> <p>2 PAGE</p> <p>3 Appearances..... 298</p> <p>4</p> <p>5 REPRESENTATIVE PATRICIA HARLESS - VOLUME 2</p> <p>6 Examination by Mr. Rosenberg..... 301</p> <p>7 Examination by Mr. Freeman..... 316</p> <p>8 Examination by Mr. Sweeten..... 346</p> <p>9 Examination by Mr. Freeman..... 347</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>Signature and Changes..... 350</p> <p>Reporter's Certificate..... 352</p> <p>EXHIBITS</p> <p>NO. DESCRIPTION PAGE</p> <p>790 11-21-11 Harless and Beuck e-mails..... 299</p> <p>791 11-28-11 Beuck e-mail to Harless..... 299</p> <p>792 2-8-09 Krannig e-mail to Harless..... 299</p> <p>793 3-21-11 Harless and Beethe e-mails..... 299</p> <p>794 3-13-12 Harless and Nehiley e-mails..... 299</p> <p>795 3-13-12 Harless and Courtney e-mails..... 299</p> <p>(Exhibits 790 - 795 premarked.)</p>
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<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 FOR THE PLAINTIFF:</p> <p>4 Patrick K. Sweeten, Assistant Attorney General</p> <p>5 OFFICE OF THE ATTORNEY GENERAL</p> <p>6 Special Litigation Division</p> <p>7 P.O. Box 12548</p> <p>8 209 W. 14th Street</p> <p>9 Austin, Texas 78711</p> <p>10 (512) 475-4330</p> <p>11 patrick.sweeten@texasattorneygeneral.gov</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>FOR THE DEFENDANT:</p> <p>Daniel Freeman, Esq.</p> <p>(Appearing Telephonically)</p> <p>UNITED STATES DEPARTMENT OF JUSTICE</p> <p>Voting Section, Civil Rights Division</p> <p>950 Pennsylvania Avenue NW</p> <p>NWB Room 7259</p> <p>Washington, D.C. 20530</p> <p>(202) 514-4609</p> <p>daniel.freeman@usdoj.gov</p> <p>FOR THE DEFENDANT INTERVENORS, NAACP:</p> <p>Ezra D. Rosenberg, Esq.</p> <p>(Appearing Telephonically)</p> <p>-and-</p> <p>Lindsey Stelcen, Attorney at Law</p> <p>DECHERT, LLP</p> <p>902 Carnegie Center, Suite 500</p> <p>Princeton, New Jersey 08540</p> <p>(609) 955-3200</p> <p>ezra.rosenberg@dechert.com</p> <p>lindsey.stelcen@dechert.com</p>	<p>1 MR. ROSENBERG: Is the witness sworn in?</p> <p>2 MR. SWEETEN: Well, I want to -- I want to</p> <p>3 make the announcement also just for the record to discuss</p> <p>4 the contours of the deposition. This is Patrick Sweeten</p> <p>5 on behalf of State of Texas and on behalf of the witness,</p> <p>6 Representative Harless. We are here pursuant to the</p> <p>7 Court's order of 6-8-2012 where they re-opened the</p> <p>8 deposition of Harless. It is not to exceed one hour.</p> <p>9 It's limited to questions about contacts with</p> <p>10 constituents and other members of the public.</p> <p>11 We will allow Representative Harless to</p> <p>12 sit in conformance with the Court's order and answer</p> <p>13 questions in conformance with the Court's order today.</p> <p>14 She continues to assert the legislative privileges as</p> <p>15 well as to any sort of privileged communication.</p> <p>16 And with that, you guys can take over. I</p> <p>17 want a hard stop -- I want a time check hard stop at one</p> <p>18 hour of record time.</p> <p>19 MR. ROSENBERG: Is the witness sworn in?</p> <p>20 COURT REPORTER: No, she's not. Give me</p> <p>21 one moment, please.</p> <p>22 REPRESENTATIVE PATRICIA HARLESS,</p> <p>23 having been first duly sworn, testified as follows:</p> <p>24</p> <p>25</p>

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<p>1 CONTINUED EXAMINATION</p> <p>2 BY MR. ROSENBERG:</p> <p>3 Q. Representative Harless, this is Ezra Rosenberg.</p> <p>4 We met at your last deposition. And I'm not going to</p> <p>5 repeat any of the guidelines because I assume you</p> <p>6 remember them. Is that correct?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Okay. Did you have a chance to review the</p> <p>9 transcript of your deposition prior to today?</p> <p>10 A. I've skimmed it.</p> <p>11 Q. Okay. The first question I have,</p> <p>12 Representative Harless, did you have any conversations or</p> <p>13 communications with constituents concerning specific</p> <p>14 incidents of in-person voter fraud in your district that</p> <p>15 occurred over the last 20 years?</p> <p>16 A. I can't recall any specific conversations.</p> <p>17 Q. Do you recall any general conversations?</p> <p>18 A. I know in working the polls during early</p> <p>19 voting, a number of times I had constituents come up and</p> <p>20 talk about photo voter identifications at the polls and</p> <p>21 the need to have people verify they are who they say they</p> <p>22 are when they vote in person.</p> <p>23 Q. At your deposition you were asked this</p> <p>24 question: And it's on page 107 line 5: "Are you aware</p> <p>25 of any specific incidents of in-person voter fraud in</p>	<p>1 A. I can't recall any specific conversations, no.</p> <p>2 Q. Are you aware of any conversations or</p> <p>3 communications that you had with constituents concerning</p> <p>4 whether individuals in Texas ever created counterfeit</p> <p>5 photographic identification cards?</p> <p>6 A. I don't recall that specifically.</p> <p>7 Q. Do you recall any general conversations?</p> <p>8 A. It may have. I've had a number of</p> <p>9 conversations with constituents. Typically, I'm</p> <p>10 listening and not talking. But I can't remember exactly</p> <p>11 all the details of those conversations.</p> <p>12 Q. Do you recall any details of the conversations?</p> <p>13 A. No, sir.</p> <p>14 Q. All right. Are you -- Do you recall any</p> <p>15 conversations or communications that you had with any</p> <p>16 constituents concerning minors or individuals under the</p> <p>17 age of 21 creating or using false identifications in</p> <p>18 order to obtain alcohol?</p> <p>19 A. Not that I recall.</p> <p>20 Q. Do you recall any conversations or</p> <p>21 communications that you had with constituents concerning</p> <p>22 mail in ballot fraud?</p> <p>23 COURT REPORTER: Mail?</p> <p>24 MR. SWEETEN: Mail in ballot fraud.</p> <p>25 A. Not that I recall. Those conversations could</p>
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<p>1 your district, Texas House District 126, in the last</p> <p>2 20 years.</p> <p>3 And then there was an objection by Mr. Sweeten.</p> <p>4 And you answered, "I was going to say that's</p> <p>5 privileged conversation with constituents."</p> <p>6 Do you remember that testimony?</p> <p>7 MR. SWEETEN: Ezra, just for the record,</p> <p>8 I'm putting the transcript that you're reading from in</p> <p>9 front of her so she can have the context of it.</p> <p>10 MR. ROSENBERG: Okay. Great.</p> <p>11 A. I see it in the deposition, yes, sir.</p> <p>12 Q. And can you tell me what you were referring to</p> <p>13 when you said, "I was going to say that's privileged</p> <p>14 conversation with constituents"?</p> <p>15 A. What it says. I was going to say that was</p> <p>16 privileged.</p> <p>17 Q. But were you aware of any specific incidents of</p> <p>18 in-person voter fraud that was told to you in</p> <p>19 conversations with constituents?</p> <p>20 A. I can't recall specific conversations with</p> <p>21 constituents.</p> <p>22 Q. Okay. Are you aware of any conversations and</p> <p>23 communications with constituents that you had concerning</p> <p>24 convictions the attorney general has secured for</p> <p>25 in-person voter fraud over the last 20 years?</p>	<p>1 have existed. But I can't remember specifically or</p> <p>2 generally.</p> <p>3 Q. Are you -- Do you recall any conversations or</p> <p>4 communications with constituents that you had concerning</p> <p>5 documented cases of non-citizens committing in-person</p> <p>6 ballot fraud in Texas?</p> <p>7 A. I don't recall any.</p> <p>8 Q. Do you recall having any conversations or</p> <p>9 communications with constituents concerning the</p> <p>10 relationship of S.B. 14 with fears of illegal immigrants</p> <p>11 voting?</p> <p>12 COURT REPORTER: I'm sorry. Sir, at the</p> <p>13 end of every one of your questions, I'm having a little</p> <p>14 bit of difficulty understanding the words. I don't know</p> <p>15 exactly why that is. But it --</p> <p>16 MR. ROSENBERG: Let me repeat that.</p> <p>17 Q. And I guess my first question, Representative</p> <p>18 Harless, is have you been able to understand my</p> <p>19 questions?</p> <p>20 A. I understand. There's -- there's a delay,</p> <p>21 like, a second where maybe a syllable of a word doesn't</p> <p>22 come across like almost on a cell phone. But I've</p> <p>23 understood what you're asking.</p> <p>24 Q. Okay. I will try to slow down despite</p> <p>25 Mr. Sweeten's threat of a cut off.</p>

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<p style="text-align: right;">Page 305</p> <p>1 Representative Harless, do you recall any</p> <p>2 conversation or communication that you've had with</p> <p>3 constituents concerning a relationship between S.B. 14</p> <p>4 and fears of illegal immigrant voting?</p> <p>5 A. I do not recall any.</p> <p>6 Q. Representative Harless, have you ever had an</p> <p>7 individual registered voter tell you that they did not</p> <p>8 vote because they were concerned about voter fraud</p> <p>9 cancelling out their votes?</p> <p>10 A. I don't recall a conversation of that.</p> <p>11 Q. All right. I'd like you to turn your attention</p> <p>12 to page 132 of the transcript of your deposition --</p> <p>13 A. Yes, sir.</p> <p>14 Q. -- line 16 where you were asked, "Have you ever</p> <p>15 had an individual registered voter tell you that they did</p> <p>16 not vote because they were concerned about voter fraud</p> <p>17 cancelling out their vote." Do you see that?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And then on line 22 after Mr. Sweeten's</p> <p>20 objection, you said, "I believe by answering that I will</p> <p>21 -- I will reveal personal conversations with</p> <p>22 constituents." Do you see that?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Can you tell me what you meant by your answer?</p> <p>25 A. I just meant that if that conversation took</p>	<p style="text-align: right;">Page 307</p> <p>1 taking a more prominent position on photographic I.D. in</p> <p>2 the Legislature?</p> <p>3 A. There may have been e-mail communications when</p> <p>4 we sent out information to constituents. But I don't</p> <p>5 remember those.</p> <p>6 Q. I'd like you to turn your attention to page 185</p> <p>7 of the transcript.</p> <p>8 A. 1815?</p> <p>9 Q. 185.</p> <p>10 A. 185?</p> <p>11 Q. Yeah.</p> <p>12 A. Yes, sir.</p> <p>13 Q. And the question was asked line 10: "Why did</p> <p>14 you take a more prominent position on this issue in the</p> <p>15 82nd Legislature." And this issue meant photographic</p> <p>16 identification. Do you see that?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And then there's an objection by Mr. Sweeten.</p> <p>19 And you answered, "Well, it's difficult to answer that</p> <p>20 without revealing communications with constituents, but I</p> <p>21 will say it's an issue that was important to my</p> <p>22 district."</p> <p>23 A. Yes, sir.</p> <p>24 Q. Do you see that?</p> <p>25 A. Yes, sir.</p>
<p style="text-align: right;">Page 306</p> <p>1 place, it was considered privileged at that time.</p> <p>2 Q. But you don't recall ever having any such</p> <p>3 conversation?</p> <p>4 A. No, not that I recall; no.</p> <p>5 Q. And do you ever recall having -- In my</p> <p>6 questions I've used the phrase "conversations" or</p> <p>7 "communications." And to be clear by communications,</p> <p>8 meant all kinds of communications, oral or written. Do</p> <p>9 you understand that?</p> <p>10 A. I understand that.</p> <p>11 And I also understand that constituents may</p> <p>12 write into the office and get a response. But I'm -- I</p> <p>13 mean, those may be hundreds a week during session. So I</p> <p>14 just don't know those --</p> <p>15 Q. Okay.</p> <p>16 A. -- or remember those off the top of my head.</p> <p>17 Q. Representative Harless, have you ever had an</p> <p>18 individual registered voter, who is a member of a racial</p> <p>19 minority group or ethnic minority group or language</p> <p>20 minority group, tell you that they did not vote because</p> <p>21 they were concerned about voter fraud cancelling out</p> <p>22 their vote?</p> <p>23 A. I don't recall having a conversation like that.</p> <p>24 Q. Do you recall any conversation or</p> <p>25 communications with any constituents concerning your</p>	<p style="text-align: right;">Page 308</p> <p>1 Q. Can you explain to me what you meant by your</p> <p>2 answer?</p> <p>3 MR. SWEETEN: Well, I think -- The</p> <p>4 question is phrased, Ezra -- I'm fine with you asking her</p> <p>5 about constituent communications about the issue. But</p> <p>6 when you look back at the question, which is why did you</p> <p>7 take a more prominent position, she's not going to reveal</p> <p>8 that answer as to why she took a more prominent position.</p> <p>9 That would be privileged.</p> <p>10 She can -- I'll let her discuss any</p> <p>11 communication she had as referenced in her answer because</p> <p>12 I think that's what the Court --</p> <p>13 MR. ROSENBERG: That's all I'm looking</p> <p>14 for, Pat. And specifically, I'm focusing on her answer</p> <p>15 that it's difficult to answer that without revealing</p> <p>16 communications with constituents.</p> <p>17 Q. Which communication with constituents were you</p> <p>18 concerned about revealing?</p> <p>19 MR. SWEETEN: Well, I mean, if the</p> <p>20 question is what constituents did you speak with about</p> <p>21 your position on -- in the 82nd Legislature, I'm fine</p> <p>22 with that. I'm still kind of bothered by the fact that</p> <p>23 you're asking her why did you take it because it relates</p> <p>24 back to a question that's clearly objectionable under the</p> <p>25 order. So, Ezra, I think we can get through this. I'm</p>

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<p style="text-align: right;">Page 309</p> <p>1 just uncomfortable having her answer in relation to the 2 question why. So if you want to ask -- Go ahead. 3 MR. ROSENBERG: Well, I understand what 4 you're saying. 5 <b>Q. Let me focus on this: And when you referred to</b> 6 <b>your concern about revealing conversations with</b> 7 <b>constituents, which constituents were you concerned</b> 8 <b>about?</b> 9 A. Conversations that I've had with constituents, 10 as I've mentioned earlier, at early voting places where 11 they said protecting the integrity of the election 12 process by verifying that you are who you say you are was 13 important to them. And I can't tell you specific 14 constituents. And but I know that I've had those 15 conversations during early voting and working election 16 polls. 17 <b>Q. And you can't remember the names of any of</b> 18 <b>those constituents; is that right?</b> 19 A. Not off the top of my head. 20 <b>Q. And other than those conversations, were there</b> 21 <b>any other constituents with whom you had conversations</b> 22 <b>concerning your position on photographic I.D.?</b> 23 A. It's an issue that's important to my district. 24 I hear about it often. 25 <b>Q. And I understand that. And I'm asking if you</b></p>	<p style="text-align: right;">Page 311</p> <p>1 <b>conversation?</b> 2 A. She came to the office to let me know that she 3 was available if I had any questions or needed any 4 assistance. 5 <b>Q. And what else was said during the conversation?</b> 6 A. I -- I don't know exactly. But it was 7 basically for you stopping by and letting me know that 8 you're available. I appreciate it. And it was just a 9 basic kind of introduction meeting. 10 <b>Q. Now, who is Catherine Engelbrecht?</b> 11 A. She is a lady who is part of the King Street 12 Patriots -- 13 <b>Q. And --</b> 14 A. -- or I think that's who's she's associated 15 with. 16 <b>Q. And who are the King Street Patriots?</b> 17 A. You know, I don't -- I don't know them 18 personally. I think they're -- I think originally they 19 started as a Tea Party group. But I'm not exactly sure. 20 <b>Q. Prior to that conversation that you had with</b> 21 <b>Ms. Engelbrecht, have you ever discussed voter</b> 22 <b>identification with her?</b> 23 A. Not that I recall. I only remember seeing her 24 one other time prior to that. 25 <b>Q. And after that conversation with</b></p>
<p style="text-align: right;">Page 310</p> <p>1 <b>identify any other constituents other than those with</b> 2 <b>whom you had conversations in a polling place?</b> 3 A. Not that I can recall. 4 <b>Q. Did you have any communications in 2010 prior</b> 5 <b>to filing S.B. 14 concerning photographic voter I.D.</b> 6 <b>other than those conversations that you described?</b> 7 A. Possible. 8 <b>Q. Do you recall any specific ones?</b> 9 A. No, I don't. 10 <b>Q. At your deposition do you recall testifying</b> 11 <b>about conversations that you had with Catherine</b> 12 <b>Engelbrecht?</b> 13 A. Yes. 14 <b>Q. And can you -- I think you testified that the</b> 15 <b>conversation occurred around March, 2011; is that</b> 16 <b>correct?</b> 17 A. I -- I testified that it happened after -- it 18 was announced that I would carry the legislation in the 19 first committee meeting, which I guess was around March. 20 <b>Q. And how long did that conversation last?</b> 21 A. I don't know exactly. But I would say less 22 than ten minutes. 23 <b>Q. And the conversation occurred in your office?</b> 24 A. Yes, sir. 25 <b>Q. And can you tell me the substance of the</b></p>	<p style="text-align: right;">Page 312</p> <p>1 <b>Ms. Engelbrecht, did you have any other conversations</b> 2 <b>with her concerning voter identification?</b> 3 A. You know, I don't know for sure. During 4 session, people wander the halls, and we pass them in the 5 halls and say hi, how are you doing. That could be 6 possible. But not -- not that I recall. 7 <b>Q. Did Ms. Engelbrecht subsequently provide any</b> 8 <b>help to you in relation to S.B. 14?</b> 9 A. I don't think she did to me. She may have 10 visited with my staff. But I don't remember anything 11 specific. 12 <b>Q. And when you say, she may have visited with</b> 13 <b>your staff, do you know whether she visited with your</b> 14 <b>staff?</b> 15 A. I don't know. 16 <b>Q. Do you know whether she spoke with any other</b> 17 <b>legislators?</b> 18 A. I don't know that. 19 <b>Q. Do you know whether she provided any assistance</b> 20 <b>to any legislator concerning S.B. 14?</b> 21 A. No, I don't. 22 <b>Q. At your deposition I think you also mentioned</b> 23 <b>conversations that you had with George Hammerline. Do</b> 24 <b>you recall that?</b> 25 A. Yes, sir.</p>

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<p>1 Q. Do you know who is George Hammerline?</p> <p>2 A. He's someone who works for one of the county</p> <p>3 agencies. I'm not sure if it's the clerk or the voter</p> <p>4 registrar or which agency, but he works for Harris</p> <p>5 County.</p> <p>6 Q. And when were your conversations with him</p> <p>7 concerning S.B. 14?</p> <p>8 A. He stopped by the office after -- I don't know</p> <p>9 if it was after the committee or after it was announced</p> <p>10 that I would carry the legislation and said he was</p> <p>11 available to help if I needed any.</p> <p>12 Q. And what was your response?</p> <p>13 A. Thank you. I appreciate it. I'll keep your</p> <p>14 card. And if I need any help, we'll contact you.</p> <p>15 Q. And what kind of help did you understand that</p> <p>16 he was offering?</p> <p>17 A. I had no clue.</p> <p>18 Q. Did you ask him what kind of help he was</p> <p>19 offering?</p> <p>20 A. No, sir.</p> <p>21 Q. Did you have any other conversations with</p> <p>22 Mr. Hammerline, other than that conversation concerning</p> <p>23 voter registration?</p> <p>24 A. I could have. But I don't know specifically.</p> <p>25 Q. Do you know whether Mr. Hammerline did, in</p>	<p>1 A. Not that I recall.</p> <p>2 Q. Does your office maintain any documentation of</p> <p>3 meetings that you or your staff have with lobbyists?</p> <p>4 A. I'm not sure of the documentation my staff</p> <p>5 maintains.</p> <p>6 Q. Do you know whether any documentation</p> <p>7 concerning meetings with you and your staff with</p> <p>8 lobbyists has been produced in this litigation?</p> <p>9 A. I don't -- I don't know exactly what all has</p> <p>10 been produced. I know we produced a lot of stuff. But I</p> <p>11 can't recall it.</p> <p>12 Q. Did any of your constituents without prompting</p> <p>13 from your office reach out to your office to offer their</p> <p>14 assistance with S.B. 14?</p> <p>15 A. I don't know that.</p> <p>16 Q. Did you have any conversations with</p> <p>17 constituents who opposed S.B. 14?</p> <p>18 A. You mean, communication or conversations?</p> <p>19 Q. Well, let's start with conversations.</p> <p>20 A. Not that I recall.</p> <p>21 Q. Did you have any communications with</p> <p>22 constituents that opposed S.B. 14?</p> <p>23 A. I know that during the legislative session in</p> <p>24 the interim, we send out an e-mail newsletter to kind of</p> <p>25 update our constituents on things that we're working on</p>
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<p>1 fact, provide any assistance to any of the Texas</p> <p>2 legislators, including yourself, concerning the passage</p> <p>3 of S.B. 14?</p> <p>4 MR. SWEETEN: I think that goes beyond</p> <p>5 communications. But I mean, if you're asking her if she</p> <p>6 knew of communications Hammerline has had with anybody</p> <p>7 else, you can absolutely answer that question.</p> <p>8 A. Not that I know of. He may have. But I don't</p> <p>9 know.</p> <p>10 Q. Did you have any communications with any</p> <p>11 lobbyists concerning S.B. 14?</p> <p>12 A. They may have stopped by the office. I can't</p> <p>13 recall specifically. I don't -- I didn't seek any out.</p> <p>14 But as with any piece of legislation, once the author is</p> <p>15 announced or the bill starts moving, people just stop by</p> <p>16 the office during the legislative session and want to</p> <p>17 give their assistance. And I usually try to thank them</p> <p>18 and continue on doing my due diligence.</p> <p>19 Q. But do you remember specifically any lobbyist</p> <p>20 with whom you or your staff communicated concerning S.B.</p> <p>21 14?</p> <p>22 A. On myself, not that I recall. The staff have</p> <p>23 lots of meetings when I'm not there.</p> <p>24 Q. Were you made aware of any meetings that your</p> <p>25 staff had with a lobbyist?</p>	<p>1 and legislative issues and status of legislation. And,</p> <p>2 you know, when we send that out, we always get feedback</p> <p>3 which is the purpose of the communication. And there may</p> <p>4 have been some constituent feedback after we sent out</p> <p>5 newsletters.</p> <p>6 MR. ROSENBERG: Okay. Representative</p> <p>7 Harless, I thank you for your time. I'm going to turn</p> <p>8 the questioning over to Mr. Freeman.</p> <p>9 THE WITNESS: Okay. Thank you.</p> <p>10 MR. ROSENBERG: Thank you.</p> <p>11 Dan, you may be on mute.</p> <p>12 MR. FREEMAN: Hello, can you hear me?</p> <p>13 MR. ROSENBERG: Yes.</p> <p>14 MR. FREEMAN: Okay. Sorry about that.</p> <p>15 EXAMINATION</p> <p>16 BY MR. FREEMAN:</p> <p>17 Q. Good morning, Representative.</p> <p>18 A. Hi; how are you.</p> <p>19 Q. I'm all right. Sorry that I'm not able to be</p> <p>20 there in person today. Although, it is nice to be home</p> <p>21 once in a while.</p> <p>22 A. I bet. I bet you're glad to be home.</p> <p>23 Q. I've almost achieved gold status on American</p> <p>24 Airlines now.</p> <p>25 A. Good for you.</p>

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<p>1 Q. Yeah. So I just have a few additional</p> <p>2 questions.</p> <p>3 First of all, were there any particular groups</p> <p>4 that you were aware of that were vocal in advocating for</p> <p>5 voter I.D.?</p> <p>6 A. I'm sure there were.</p> <p>7 Q. You know -- Pardon me?</p> <p>8 A. I'm sure there were.</p> <p>9 Q. Do you recall any particular names of groups?</p> <p>10 A. The only one that I recall would be the Texas</p> <p>11 Federation of Republican Women.</p> <p>12 Q. You had previously mentioned the King Street</p> <p>13 Patriots. Do you know if they were vocal about voter</p> <p>14 I.D.?</p> <p>15 A. Probably. But I don't know for sure that I</p> <p>16 knew that.</p> <p>17 Q. Well, their leader did come to visit you,</p> <p>18 didn't she?</p> <p>19 A. Yes, she did.</p> <p>20 Q. And so it would be fair to say that they were</p> <p>21 reaching out to you on the issue; is that correct?</p> <p>22 A. Well, not necessarily. Because I don't know</p> <p>23 that I knew she was a leader of the King Street Patriots,</p> <p>24 and I don't know that I knew what her role was, Catherine</p> <p>25 Engelbrecht.</p>	<p>1 with her that were produced alongside the Court's ruling</p> <p>2 about the application of legislative privilege to</p> <p>3 constituent communications. And I'd like to just have</p> <p>4 her put just a few of those in front of you so we could</p> <p>5 talk through them.</p> <p>6 A. Okay.</p> <p>7 Q. Now, first, I believe Lindsey has a document</p> <p>8 marked as Exhibit 790 --</p> <p>9 MS. STELCEN: Correct.</p> <p>10 Q. -- which should have a Bates number on the top</p> <p>11 TX_00007063.</p> <p>12 MR. FREEMAN: Lindsey, could you please</p> <p>13 put that in front of the witness?</p> <p>14 MS. STELCEN: (Tenders documents.) Okay.</p> <p>15 Q. Representative, what is this document?</p> <p>16 A. It looks like maybe an e-mail.</p> <p>17 Q. And is it an e-mail from you to Mr. Beuck?</p> <p>18 A. It looks like it.</p> <p>19 Q. When is the e-mail dated?</p> <p>20 A. November 21st, 2011.</p> <p>21 Q. And if you could, take a moment to look at the</p> <p>22 text of the e-mail. Did you say that you would be making</p> <p>23 two speeches in the next week?</p> <p>24 A. I -- I -- I don't know. I don't see two</p> <p>25 speeches. It says, I appreciate you forwarding me the</p>
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<p>1 Q. When she visited with you, did she explain her</p> <p>2 relationship to the King Street Patriots?</p> <p>3 A. No, I don't think she did.</p> <p>4 Q. And you had said before that she offered some</p> <p>5 kind of assistance. Did she specify what type of</p> <p>6 assistance she could make available?</p> <p>7 A. Not that I recall.</p> <p>8 Q. Okay. One more quick follow up on one of</p> <p>9 Mr. Rosenberg's questions, he had spoken to you about</p> <p>10 whether constituents had spoken to you about specific</p> <p>11 incidents of in-person voter fraud in your district,</p> <p>12 House District 126. Were there any conversations that</p> <p>13 you had with constituents about specific evidence of</p> <p>14 incidents of in-person voter fraud?</p> <p>15 A. Not that I recall.</p> <p>16 Q. Did they ever tell you a particular date when</p> <p>17 in-person voter fraud had occurred?</p> <p>18 A. A particular what?</p> <p>19 Q. A particular date or a particular election.</p> <p>20 A. Not that I recall.</p> <p>21 Q. Okay. Did they ever tell you a particular</p> <p>22 polling place where in-person voter fraud had occurred?</p> <p>23 A. Not that I recall.</p> <p>24 Q. Okay. Thank you.</p> <p>25 Ms. Stelcen from Dechert has a few documents</p>	<p>1 information but you know I'm expected to give a speech</p> <p>2 outline on both redistricting and photo voter I.D. by</p> <p>3 Wednesday, right.</p> <p>4 Q. And it says later, I have lots of good info on</p> <p>5 both. I just need them in one piece of paper for my two</p> <p>6 speeches next week.</p> <p>7 A. Oh, okay. I see that.</p> <p>8 Q. When were those speeches? Were they the</p> <p>9 following week? Do you recall them?</p> <p>10 A. I have no clue.</p> <p>11 Q. Do you recall where you gave those speeches?</p> <p>12 This would be around Thanksgiving last fall.</p> <p>13 A. No.</p> <p>14 Q. Do you recall who the audiences were?</p> <p>15 A. No, sir.</p> <p>16 Q. Do you recall if there were any Hispanic voters</p> <p>17 in attendance?</p> <p>18 A. No, sir.</p> <p>19 MR. FREEMAN: Okay. Lindsey, if you could</p> <p>20 put the document labeled U.S. Exhibit 791 in front of the</p> <p>21 witness.</p> <p>22 MS. STELCEN: (Tenders documents.) Okay.</p> <p>23 Q. Representative, what is this document?</p> <p>24 MR. SWEETEN: I caution the witness to</p> <p>25 review it before answering the question to the extent you</p>

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<p style="text-align: right;">Page 321</p> <p>1 need to.</p> <p>2 A. Just one second. Can I look through it?</p> <p>3 Q. Of course, you can.</p> <p>4 A. It looks like an e-mail from Colby to me on</p> <p>5 speech follow up with details.</p> <p>6 Q. And is it dated November 28, 2011?</p> <p>7 A. Yes, sir.</p> <p>8 Q. So that's the week after the prior e-mail,</p> <p>9 correct?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Can you turn to the last page, which should be</p> <p>12 marked TX_00007052?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Thank you. If you look at the second or third</p> <p>15 to last line, did you write that the information for</p> <p>16 speeches is to friendly groups?</p> <p>17 A. That's what it says.</p> <p>18 Q. And do you recall who you would have referred</p> <p>19 to as friendly groups?</p> <p>20 MR. SWEETEN: Wait a minute. Hold on a</p> <p>21 minute. You're asking her to interpret the words, Dan,</p> <p>22 what she meant?</p> <p>23 MR. FREEMAN: I'm trying to see if this</p> <p>24 can refresh her recollection about who she was speaking</p> <p>25 to.</p>	<p style="text-align: right;">Page 323</p> <p>1 friendly group when you were doing a public speech?</p> <p>2 MR. SWEETEN: Well, you can answer that to</p> <p>3 the extent you're not revealing your thoughts and mental</p> <p>4 impressions about legislation. So you can answer if it</p> <p>5 won't do that.</p> <p>6 A. I -- if I -- off the top of my head -- And I</p> <p>7 don't know specifics. But off the top of my head, a</p> <p>8 friendly group, I would think, would be a Republican</p> <p>9 group. And we try to keep partisan out of it. So but I</p> <p>10 don't know if that's what I was referring to.</p> <p>11 Q. Are there any other particular groups that you</p> <p>12 give speeches to that you would refer to as friendly</p> <p>13 groups?</p> <p>14 A. Groups that have my family in it.</p> <p>15 Q. I thought you said your family are all of your</p> <p>16 business competitors, Representative?</p> <p>17 A. They are. They're still friendly.</p> <p>18 Q. I'm glad to hear it.</p> <p>19 A. They're constituents, too.</p> <p>20 Q. Okay. Then do you recall if you used bullet</p> <p>21 points in your speeches?</p> <p>22 A. Excuse me?</p> <p>23 Q. Do you recall if you used bullet points</p> <p>24 provided by Mr. Beuck in your speeches?</p> <p>25 A. I -- I -- I'm sure I used some.</p>
<p style="text-align: right;">Page 322</p> <p>1 MR. SWEETEN: Well, she can testify about</p> <p>2 whether or not this statement is there. But she's not</p> <p>3 going to give -- she's not going to give information in</p> <p>4 support of or interpreting the words, you know, that are</p> <p>5 on this page.</p> <p>6 So I'm going to caution you. I don't want</p> <p>7 you to -- You don't have to reveal your thoughts and</p> <p>8 mental impressions to the extent that they would relate</p> <p>9 to legislation, including Senate Bill 14, in answering</p> <p>10 this question.</p> <p>11 MR. FREEMAN: Mr. Sweeten, I think we can</p> <p>12 both agree that this e-mail does not address a</p> <p>13 legislative act. Rather it addresses a single act and,</p> <p>14 therefore, definition of a friendly group is not</p> <p>15 protected by the privilege. I'm going to re-ask my</p> <p>16 question, and I'll ask you not to object on that basis.</p> <p>17 So let me rephrase my question.</p> <p>18 Q. Representative, on the second or third last</p> <p>19 line did you write to Mr. Beuck, "This info is for</p> <p>20 speeches to friendly groups"?</p> <p>21 A. That's what it says, yes, sir.</p> <p>22 Q. And who -- Does that help refresh your</p> <p>23 recollection as to who you would be speaking to?</p> <p>24 A. No.</p> <p>25 Q. And who would you typically define as a</p>	<p style="text-align: right;">Page 324</p> <p>1 Q. Okay. Now, on the same page do you see where</p> <p>2 you wrote, "Our bill needs both the constitutional test</p> <p>3 of Indiana and preclearance of Georgia?"</p> <p>4 A. Yes.</p> <p>5 Q. And so you were aware that the Supreme Court</p> <p>6 decisions concerning Indiana was addressing a</p> <p>7 constitutional test, correct?</p> <p>8 MR. SWEETEN: Don't answer the question if</p> <p>9 you would require you to reveal thoughts or mental</p> <p>10 impressions about legislation. If it would require you</p> <p>11 to do so, do not answer the question.</p> <p>12 A. What is the question again?</p> <p>13 MR. FREEMAN: Could the court reporter</p> <p>14 please read it back?</p> <p>15 COURT REPORTER: Yes.</p> <p>16 (Whereupon requested testimony read back.)</p> <p>17 MR. SWEETEN: Same instruction.</p> <p>18 A. I -- I guess. I don't know.</p> <p>19 Q. And you were aware that your preclearance</p> <p>20 addressing Georgia concerns the Voting Rights Act; am</p> <p>21 correct?</p> <p>22 MR. SWEETEN: The same objection, if it</p> <p>23 would require you to reveal your thoughts and mental</p> <p>24 impressions about legislation, including Senate Bill 14,</p> <p>25 don't answer.</p>

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<p style="text-align: right;">Page 325</p> <p>1 A. Yes, I am aware of that.</p> <p>2 Q. Okay. Now, let's turn to the substance, which</p> <p>3 is back on the first page of this exhibit. If you look</p> <p>4 to the third bullet on the first page, does the e-mail</p> <p>5 from Mr. Beuck state that in-person voter fraud may no</p> <p>6 be evident until after the election has occurred?</p> <p>7 A. Yes.</p> <p>8 Q. Does this statement logically imply that</p> <p>9 in-person voter fraud may be evident after the election</p> <p>10 occurred?</p> <p>11 MR. SWEETEN: I'm going to object. To the</p> <p>12 extent it would require you to reveal your thoughts and</p> <p>13 mental impressions about legislation, don't answer the</p> <p>14 question.</p> <p>15 A. Well, I think the statement says that, in fact,</p> <p>16 in-person voter fraud may not be evident until after the</p> <p>17 election has occurred. The statement says what it says.</p> <p>18 Q. Are you aware of any cases of in-person voter</p> <p>19 fraud that were detected only after an election had</p> <p>20 occurred?</p> <p>21 MR. SWEETEN: Do not reveal your thoughts</p> <p>22 or mental impressions about legislation in answering his</p> <p>23 question. Anything you considered your motivations about</p> <p>24 the bill do not provide them in answering this question.</p> <p>25 A. I don't recall specifics.</p>	<p style="text-align: right;">Page 327</p> <p>1 privilege.</p> <p>2 MR. FREEMAN: Mr. Sweeten, it was a</p> <p>3 question about the public record and hearings in the</p> <p>4 House.</p> <p>5 MR. SWEETEN: Okay. You can testify as to</p> <p>6 matters of the public record. But don't reveal your</p> <p>7 thoughts or mental impressions about legislation. Go</p> <p>8 ahead.</p> <p>9 A. I don't know specifically. I know that over</p> <p>10 the last few sessions, all the hearings -- committee</p> <p>11 hearings and the floor is recorded and available to watch</p> <p>12 at any time. The one specifically that I remember is</p> <p>13 Senator Williams' brother in the Senate side testifying</p> <p>14 of that happening. But that's the only one I recall</p> <p>15 specifically.</p> <p>16 Q. When were those voter registration card stolen?</p> <p>17 A. I don't know.</p> <p>18 Q. Did Senator Williams' brother explain when or</p> <p>19 how the voter registration card had been stolen?</p> <p>20 MR. SWEETEN: You can refer to matters of</p> <p>21 public record.</p> <p>22 A. I don't recall that.</p> <p>23 COURT REPORTER: I'm sorry?</p> <p>24 MR. SWEETEN: You can refer to matters of</p> <p>25 the public record.</p>
<p style="text-align: right;">Page 326</p> <p>1 Q. Okay. Have you ever signed a poll book when</p> <p>2 you voted in Texas?</p> <p>3 A. I don't know what it's called. But when I show</p> <p>4 up to vote, I give them my voter registration and usually</p> <p>5 have to sign something.</p> <p>6 Q. Okay.</p> <p>7 A. Is it a poll book, I don't know.</p> <p>8 Q. Are you aware of any cases set out in the</p> <p>9 public record concerning this case in which signature in</p> <p>10 a poll book has been found not to match a signature on</p> <p>11 file and thus proving the case of in-person voter fraud?</p> <p>12 MR. SWEETEN: Same instruction, don't</p> <p>13 reveal your thought processes about legislation in</p> <p>14 answering this question.</p> <p>15 A. I don't recall specifically.</p> <p>16 Q. Okay. If you can keep looking at that same</p> <p>17 bullet point, did Mr. Beuck also write, "Over the last</p> <p>18 couple of legislative sessions we heard from many</p> <p>19 witnesses who testified that voter registration cards had</p> <p>20 been stolen and false votes cast in those person's names</p> <p>21 most of whom were deceased"?</p> <p>22 A. That's what he wrote.</p> <p>23 Q. Who were the witnesses that he's referring to?</p> <p>24 A. I -- I don't know specifically. I know that --</p> <p>25 MR. SWEETEN: Objection, legislative</p>	<p style="text-align: right;">Page 328</p> <p>1 Go ahead, Representative.</p> <p>2 A. I don't recall that.</p> <p>3 Q. Do you recall any testimony about where these</p> <p>4 voter registration cards had been stolen from?</p> <p>5 A. No, sir.</p> <p>6 Q. Do you know why voter registration cards had</p> <p>7 been printed for individuals who were dead?</p> <p>8 MR. SWEETEN: Refer to matters of public</p> <p>9 record only in answering the question.</p> <p>10 A. I don't.</p> <p>11 Q. Are you aware as a matter of law whose</p> <p>12 responsibility it is to remove dead voters from the</p> <p>13 voting roles?</p> <p>14 A. I don't know that I know specifically. But I</p> <p>15 think that it's the voter registrar's responsibility.</p> <p>16 Q. Does Texas law already mandate that --</p> <p>17 A. I'm sorry. I lost you at mandate.</p> <p>18 Hello; hello?</p> <p>19 MR. ROSENBERG: I think he must have</p> <p>20 gotten cut off. It's 11:42 just in case you're keeping</p> <p>21 track, Patrick. But let's see what time he gets back on.</p> <p>22 MR. SWEETEN: Okay.</p> <p>23 MR. ROSENBERG: I'll shoot him an e-mail.</p> <p>24 There he is. Dan, we lost you for a</p> <p>25 second.</p>

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<p style="text-align: right;">Page 329</p> <p>1 MR. FREEMAN: Yeah, my connection cut out.</p> <p>2 I apologize for that. I apologize for wasting everyone's</p> <p>3 time for a moment there. Are we ready to go back?</p> <p>4 MR. SWEETEN: Yeah. We stopped the clock</p> <p>5 at 36 minutes. So we'll go back on now. Okay?</p> <p>6 MR. FREEMAN: Thank you for that. I</p> <p>7 appreciate the courtesy.</p> <p>8 <b>Q. Representative, my prior question I think was</b></p> <p>9 <b>lost because of a phone difficulty on my end, which was</b></p> <p>10 <b>whether Texas law prior to S.B. 14 already mandated the</b></p> <p>11 <b>removal of dead voters from the voting roles?</b></p> <p>12 <b>A. I'm not familiar.</b></p> <p>13 <b>Q. Do you know if federal law already mandates</b></p> <p>14 <b>list maintenance be conducted at a state level?</b></p> <p>15 <b>A. I'm not aware.</b></p> <p>16 <b>Q. And you can name no one, other than Senator</b></p> <p>17 <b>Williams' brother, who testified concerning the theft of</b></p> <p>18 <b>a voter registration card; is that correct?</b></p> <p>19 <b>A. That's the only person I remember from a number</b></p> <p>20 <b>of years of committee hearings.</b></p> <p>21 <b>Q. Okay. Thank you for your testimony.</b></p> <p>22 <b>Now, in the sixth bullet do you see where</b></p> <p>23 <b>Mr. Beuck quotes from Crawford v. Marion County for</b></p> <p>24 <b>election?</b></p> <p>25 <b>A. I see the sixth bullet and I see -- What part</b></p>	<p style="text-align: right;">Page 331</p> <p>1 communications.</p> <p>2 MR. FREEMAN: I will assure you that all</p> <p>3 further documents are direct correspondence between the</p> <p>4 Representative and --</p> <p>5 MR. SWEETEN: Okay. And I'm letting this</p> <p>6 examination continue based on your representation that we</p> <p>7 withheld it based on the fact that it's a constituent</p> <p>8 communication.</p> <p>9 So go ahead, Representative Harless, you</p> <p>10 can answer his question.</p> <p>11 <b>A. I'm not sure what the question was.</b></p> <p>12 <b>Q. I'm happy to rephrase it.</b></p> <p>13 <b>Am I correct that the document states that the</b></p> <p>14 <b>decision in Crawford v. Marion County for election in</b></p> <p>15 <b>this document -- that the decision addressed all photo</b></p> <p>16 <b>I.D. requirements but that the words "photo I.D.</b></p> <p>17 <b>requirements" are in brackets?</b></p> <p>18 <b>A. You know, I -- I see that. I will --</b></p> <p>19 <b>MR. SWEETEN: Don't give the whys. We're</b></p> <p>20 <b>not giving why you did something. If you can, answer</b></p> <p>21 <b>that question as phrased as to what's on the document.</b></p> <p>22 <b>A. I see that you say that.</b></p> <p>23 <b>Q. Am I correct that I didn't say that but</b></p> <p>24 <b>Mr. Beuck wrote "photo I.D. requirements" but it is in</b></p> <p>25 <b>brackets; is that correct?</b></p>
<p style="text-align: right;">Page 330</p> <p>1 specifically?</p> <p>2 <b>Q. Well, in April of 2008, the U.S. Supreme Court</b></p> <p>3 <b>upheld Indiana's photo I.D. law six-to-three in Crawford</b></p> <p>4 <b>vs. Marion.</b></p> <p>5 <b>A. Yes.</b></p> <p>6 <b>Q. In fact, wasn't that decision only addressing</b></p> <p>7 <b>Indiana's law?</b></p> <p>8 MR. SWEETEN: Yeah, don't reveal your</p> <p>9 thoughts and mental impressions about the law if it would</p> <p>10 relate to what you considered with respect to this bill;</p> <p>11 okay, don't reveal those. That's legislatively</p> <p>12 privileged.</p> <p>13 Also, Dan, is this a correspondence</p> <p>14 between -- is this a constituent correspondence that</p> <p>15 we're looking at?</p> <p>16 MR. FREEMAN: This was withheld on the</p> <p>17 basis that it is a speech that would be given to</p> <p>18 constituents, I believe. We didn't receive this until a</p> <p>19 few days ago. But I think this is fairly within the</p> <p>20 scope of the deposition.</p> <p>21 MR. SWEETEN: Well, I mean, the scope of</p> <p>22 the deposition is really limited to constituent</p> <p>23 communications. I'll let you continue on this document</p> <p>24 because I hear what you're saying. But if on any further</p> <p>25 documents, if we can go back to constituent</p>	<p style="text-align: right;">Page 332</p> <p>1 <b>A. Yes.</b></p> <p>2 <b>Q. And are you aware of whether the actual</b></p> <p>3 <b>decision language of Crawford vs. Marion County where</b></p> <p>4 <b>those brackets appear simply named the Indiana photo I.D.</b></p> <p>5 <b>law?</b></p> <p>6 <b>A. I'm not aware of that.</b></p> <p>7 <b>MR. SWEETEN: Privileged clearly.</b></p> <p>8 <b>Q. And do you see where Mr. Beuck wrote that</b></p> <p>9 <b>Justice Stevens's opinion also noted that for the few</b></p> <p>10 <b>voters without I.D., the burden of obtaining one does not</b></p> <p>11 <b>qualify as a substantial burden on the right to vote?</b></p> <p>12 <b>A. I see where he wrote that.</b></p> <p>13 <b>Q. And are you aware of whether Justice Stevens's</b></p> <p>14 <b>was talking about factual scenarios beyond Indiana?</b></p> <p>15 <b>MR. SWEETEN: No. We're not going to</b></p> <p>16 <b>interpret a decision to the extent that it would require</b></p> <p>17 <b>you to reveal your thoughts or mental impressions about</b></p> <p>18 <b>legislation. So if in answering the question it would do</b></p> <p>19 <b>that, do not answer the question.</b></p> <p>20 <b>A. I -- I have no clue what you're talking about.</b></p> <p>21 <b>Q. Okay. Texas is a bigger state than Indiana,</b></p> <p>22 <b>correct?</b></p> <p>23 <b>A. Yes.</b></p> <p>24 <b>Q. And Texas has higher overall poverty rates than</b></p> <p>25 <b>Indiana, correct?</b></p>



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<p>1 A. I don't know that for sure.</p> <p>2 Q. Okay. Are you aware of whether Justice Stevens</p> <p>3 preceded the language that's quoted here by saying he was</p> <p>4 referring to most voters who need I.D., not all voters</p> <p>5 that need I.D.?</p> <p>6 MR. SWEETEN: Same instruction on</p> <p>7 privilege. But you can answer.</p> <p>8 A. I'm not aware of what he was -- what he was</p> <p>9 saying.</p> <p>10 Q. Okay. If you look under bill details, do you</p> <p>11 see the third bullet where it states that S.B. 14</p> <p>12 contains an exception for indigent voters?</p> <p>13 A. Yes.</p> <p>14 Q. Does S.B. 14, in fact, contain an exception for</p> <p>15 indigent voters?</p> <p>16 A. I can't recall specifically what all was in</p> <p>17 there.</p> <p>18 Q. Do you know if the Indiana law contained an</p> <p>19 exception for indigent voters?</p> <p>20 A. I don't recall.</p> <p>21 Q. Wasn't that exception taken out during the</p> <p>22 legislative process prior to S.B. 14 being signed into</p> <p>23 law?</p> <p>24 MR. SWEETEN: Objection, foundation.</p> <p>25 A. I don't recall.</p>	<p>1 MR. SWEETEN: No, we're not answering that</p> <p>2 question. Okay. We're not answering the question that</p> <p>3 you're posing, which is not part of what the Court has</p> <p>4 ordered her to sit on.</p> <p>5 Now, I've let you have some latitude on</p> <p>6 this document. But -- but we're not getting into that</p> <p>7 information. This is a limited, very narrow purpose</p> <p>8 deposition about constituent communications. We are way</p> <p>9 far afield here, Dan.</p> <p>10 MR. FREEMAN: All right. That's fine.</p> <p>11 Lindsey, could you put Document 792 in</p> <p>12 front of the Representative?</p> <p>13 MS. STELCEN: (Tenders document.) Okay.</p> <p>14 Q. Representative, what is this document?</p> <p>15 A. It looks like an e-mail dated February 6th,</p> <p>16 2009 to a number of legislators.</p> <p>17 Q. Are you the first listed recipient?</p> <p>18 A. On this document, yes.</p> <p>19 Q. Okay. Are you aware of whether Ms. Krannig</p> <p>20 resides in your district?</p> <p>21 A. I'm not aware.</p> <p>22 Q. Okay. Am I correct that Mr. Krannig wrote to</p> <p>23 you, quote, "Letting these illegals come into our country</p> <p>24 and register under several names and then vote is not</p> <p>25 doing your job"?</p>
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<p>1 Q. Okay. For the last set of questions on this</p> <p>2 document, if you could turn to the second page. Do you</p> <p>3 see the heading for S.B. 14 Timeline?</p> <p>4 A. Yes.</p> <p>5 Q. You can go down to October 5. Is it correct</p> <p>6 that the document states that the S.O.S. does not have</p> <p>7 information requested by the Department of Justice</p> <p>8 concerning the race of voters?</p> <p>9 A. Do you want me to read what it says?</p> <p>10 Q. I'm just asking whether the document states</p> <p>11 that.</p> <p>12 MR. SWEETEN: He's just asking if it says</p> <p>13 what it says.</p> <p>14 A. Yes.</p> <p>15 Q. Okay. When Ann McGeehan, the Texas director of</p> <p>16 elections, appeared before the select committee on voter</p> <p>17 identification in voter fraud, did you ask her publicly</p> <p>18 for any such data?</p> <p>19 A. I may have. I don't recall specifically. We</p> <p>20 asked her for several things. I just don't know</p> <p>21 specifically what it was.</p> <p>22 Q. And are you aware whether the Legislature as a</p> <p>23 whole received data concerning the racial composition of</p> <p>24 the group that lacked the necessary I.D. during the</p> <p>25 legislative process?</p>	<p>1 A. I read that she wrote that.</p> <p>2 Q. Did you receive any other communications,</p> <p>3 either verbal or communicated by e-mail similarly</p> <p>4 alleging that undocumented immigrants are voting in</p> <p>5 Texas?</p> <p>6 A. Not that I recall.</p> <p>7 Q. Did you receive any substantive proof that</p> <p>8 undocumented immigrants are voting in Texas from your</p> <p>9 constituents?</p> <p>10 MR. SWEETEN: Okay. To the extent that</p> <p>11 he's asking you if constituent communications occurred,</p> <p>12 you can answer that.</p> <p>13 I mean, the proof has a value element to</p> <p>14 it, Dan, whether she thought it was proof. So I don't</p> <p>15 want to get into proof. If you want to phrase it another</p> <p>16 way --</p> <p>17 MR. FREEMAN: Yeah, I'll rephrase.</p> <p>18 MR. SWEETEN: Okay.</p> <p>19 Q. Did you receive in any other communications</p> <p>20 from constituents providing evidence or specific facts</p> <p>21 related to incidents of undocumented immigrants voting in</p> <p>22 person illegally?</p> <p>23 A. Not that I remember.</p> <p>24 Q. Did you receive any other accusations</p> <p>25 concerning that?</p>

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<p>1 MR. SWEETEN: If it's a constituent 2 communication, you can answer. 3 A. I can't remember. 4 Q. Okay. If you turn to the next page of the same 5 document. Is this a responsive e-mail from you to 6 Ms. Krannig? 7 A. It looks that way. 8 Q. And did your response in any way try to 9 dissuade Mr. Krannig from her belief that undocumented 10 immigrants are registering and voting? 11 A. It's just a blanket thank you for your letter. 12 We appreciate hearing from you. 13 Q. In fact, you wrote that you would support an 14 honest and secure voter I.D. in the next session; is that 15 correct? 16 A. "Securing integrity in the election system is 17 very important to me, and this session I will support 18 legislation establishing honest and secure voter I.D." 19 Q. And so you were in some respects confirming 20 Ms. Krannig's suspicions; is that correct? 21 MR. SWEETEN: You just testify as to what 22 you responded to. 23 A. I responded that I would support legislation 24 establishing honest and secure voter I.D. 25 Q. And so by saying that, you were saying that</p>	<p>1 When is this constituent's e-mail dated? 2 A. His is dated Sunday, March 20th, 2011. 3 Q. And so that is right around the time that the 4 vote and the debate was happening in the House concerning 5 S.B. 14; is that correct? 6 A. I guess close to it, yes. 7 Q. If you look at the second page, did Mr. Beethe 8 state that he would like it to be harder to vote? 9 A. Yes. 10 Q. Did Mr. Beethe favor requiring proof that taxes 11 have been paid prior to voting? 12 A. He says, "Registration 30 days before election, 13 I.D., proof that your taxes are paid. I could go on." 14 Q. Is requiring proof that taxes have been paid 15 prior to voting similar in some respects to a poll tax? 16 MR. SWEETEN: Yeah. Don't answer the 17 question. He's asking you to interpret it, and it 18 relates to a legislative privilege. 19 A. I don't know what he means by his statement. 20 MR. SWEETEN: My instruction is please 21 don't answer the question. 22 Q. Representative, what is a poll tax? 23 MR. SWEETEN: You can answer, I mean, not 24 in relation to legislation if you know the answer as a 25 general matter, and it doesn't relate to your thoughts.</p>
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<p>1 honest and secure voter I.D. was necessary because of the 2 cases of illegal voting that Ms. Krannig was alleging; is 3 that correct? 4 A. I think you're putting words in my mouth. I 5 said, "I will support legislation establishing honest and 6 secure voter I.D." That's -- 7 Q. Why would you tell Ms. Krannig that you were 8 supporting legislation concerning honest and secure voter 9 I.D. after Ms. Krannig's allegations were put to you 10 concerning undocumented immigrants voting? 11 MR. SWEETEN: Don't answer the question. 12 Legislative privilege. 13 A. Privilege. 14 MR. FREEMAN: Okay. Lindsey, if you can 15 put Exhibit 793 in front of the witness? 16 MS. STELCEN: (Tenders document.) Okay. 17 Q. Take a moment to look at it, please. 18 Representative, what is this document? 19 A. It looks like the top one is a response from 20 our office to a constituent. 21 Q. And is the second page an e-mail from a 22 constituent to you? 23 A. Yes, the bottom of the first and the top of the 24 second. 25 Q. Thank you.</p>	<p>1 A. You know, I don't know specifically. It was a 2 tax that was charged prior to the Voting Rights Act. 3 Q. Is it -- Representative, is the poll tax a tax 4 that had to be paid prior to being allowed to vote? 5 A. I don't remember exactly. 6 Q. Have other individuals who supported voter I.D. 7 also told you that they wished to make voting more 8 difficult as a general matter? 9 A. I -- I don't recall. I don't know. 10 Q. And with regard to this particular e-mail, did 11 you in any way disagree with Mr. Beethe when you 12 responded to him concerning his beef that voting should 13 be more difficult? 14 A. "I appreciate your sharing your support for 15 this proposal. I believe strong voter I.D. legislation 16 is essential to our state to have honest and accurate 17 elections. I fully support S.B. 14's requirements." It 18 looks like our general response. 19 Q. Okay. So you didn't -- you didn't tell him 20 that you weren't in favor of making voting more 21 difficult, did you? 22 MR. SWEETEN: You can answer based on the 23 text. 24 A. It's a general response that we sent. 25 Q. But isn't this response different than the</p>

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<p style="text-align: right;">Page 341</p> <p>1 response you sent to Mr. Krannig, which is set out in</p> <p>2 Exhibit 792?</p> <p>3 A. I don't know exactly what the differences are.</p> <p>4 But the language is pretty much the same.</p> <p>5 Q. I'll ask you to compare the two exhibits. They</p> <p>6 should both be in front of you. And I'll ask is your</p> <p>7 response in both e-mails different?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Thank you.</p> <p>10 MR. FREEMAN: Lindsey, if you could put</p> <p>11 Exhibit 794 in front of the witness?</p> <p>12 MS. STELCEN: 794?</p> <p>13 MR. FREEMAN: Yes, please.</p> <p>14 MS. STELCEN: (Tenders document.) Okay.</p> <p>15 Q. Representative, you can take a moment to review</p> <p>16 the document.</p> <p>17 Representative, what is this document?</p> <p>18 A. It's an e-mail from me -- or from our office to</p> <p>19 a constituent.</p> <p>20 Q. And is your response to the constituent</p> <p>21 different from the response on the prior two exhibits?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And if you could look towards the</p> <p>24 bottom, did Ms. Nehiley state that nothing should serve</p> <p>25 to disenfranchise those who are without means to jump</p>	<p style="text-align: right;">Page 343</p> <p>1 the types of photo I.D.s named in S.B. 14?</p> <p>2 A. I think that there are -- I think testimony in</p> <p>3 committee was that it is possible if you jump some</p> <p>4 hurdles. But I don't recall exactly what that was.</p> <p>5 Q. Okay. And when is the last time you cashed a</p> <p>6 check?</p> <p>7 A. Last week.</p> <p>8 Q. And did you deposit that check at an A.T.M.?</p> <p>9 A. No. I went to the bank and cashed a check.</p> <p>10 Q. Did you have to show a photo I.D.?</p> <p>11 A. I did.</p> <p>12 Q. Have you ever cashed a check at an A.T.M.?</p> <p>13 A. No. I didn't even know you could do that.</p> <p>14 MR. FREEMAN: Okay. Last exhibit and</p> <p>15 we're almost out of time. So if you could have</p> <p>16 Exhibit 795 put in front of the witness.</p> <p>17 MS. STELCEN: (Tenders document.) Okay.</p> <p>18 Q. Representative, what is this document?</p> <p>19 A. It looks like a constituent e-mail.</p> <p>20 Q. And is it addressed to you?</p> <p>21 A. It is. It is in a response from us to a</p> <p>22 constituent.</p> <p>23 Q. Okay. When is this dated?</p> <p>24 A. March 13, 2012.</p> <p>25 Q. And, again, is this different from the</p>
<p style="text-align: right;">Page 342</p> <p>1 extra hurdles to vote?</p> <p>2 A. Her words were, "Nothing should serve to</p> <p>3 disenfranchise those who are without means to jump extra</p> <p>4 hurdles to vote."</p> <p>5 Q. Did you receive numerous communications along</p> <p>6 these lines?</p> <p>7 A. I don't have any clue how many we received.</p> <p>8 Q. Do you know if you received communications</p> <p>9 along these lines from constituents with Spanish</p> <p>10 surnames?</p> <p>11 A. I don't know.</p> <p>12 Q. Okay. In response to this, did you claim that</p> <p>13 ballot access should have at least the same degree of</p> <p>14 integrity as boarding a plane or cashing a check?</p> <p>15 A. My words were, "As the bipartisan commission on</p> <p>16 the federal election reform concluded, ballot access</p> <p>17 should have at least the same degree of integrity as</p> <p>18 boarding a plane or cashing a check, both of which</p> <p>19 require photo I.D."</p> <p>20 Q. So, yes?</p> <p>21 A. Yes.</p> <p>22 Q. Are you certain, though, that boarding a plane</p> <p>23 and cashing a check requires a photo I.D.?</p> <p>24 A. I'm not certain.</p> <p>25 Q. Is it possible to board a plane without one of</p>	<p style="text-align: right;">Page 344</p> <p>1 responses you gave in Exhibit 792, 793 and 794?</p> <p>2 A. They look different.</p> <p>3 Q. Okay. Does Ms. Courtney state that she</p> <p>4 believes that in-person voter fraud is a fabricated</p> <p>5 problem?</p> <p>6 A. "I think this is a fabricated problem that</p> <p>7 keeps our elected officials from working on the economy</p> <p>8 and jobs."</p> <p>9 Q. And she had previously said that she is not</p> <p>10 convinced that there is fraud in our elections; is that</p> <p>11 correct?</p> <p>12 A. "I am not convinced there is fraud in our</p> <p>13 elections (except the time the Supreme Court gave the</p> <p>14 election to George Bush."</p> <p>15 Q. That would merit passing Senate Bill 14,</p> <p>16 correct?</p> <p>17 A. That's what she says.</p> <p>18 Q. Okay. Do you receive numerous communications</p> <p>19 stating that constituents did not believe that there was</p> <p>20 fraud in elections that would merit passing S.B. 14?</p> <p>21 A. I have responded before, I don't know how many</p> <p>22 we received. I know that the majority of the</p> <p>23 constituents' e-mails we get are after we send a</p> <p>24 newsletter stating what's going on in the Legislature,</p> <p>25 what's going on with legislation. That's what prompts</p>

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<p>1 them to send responses. And it's feedback.</p> <p>2 <b>Q. Okay. But you don't know whether you've</b></p> <p>3 <b>received numerous communications along these lines?</b></p> <p>4 A. I receive numerous communications from</p> <p>5 constituents all the time. I don't know what they're</p> <p>6 about.</p> <p>7 <b>Q. Okay. And in your response to Ms. Courtney's</b></p> <p>8 <b>e-mail, did you set out any individual cases of confirmed</b></p> <p>9 <b>voter fraud?</b></p> <p>10 MR. SWEETEN: You can review your response</p> <p>11 to answer the question.</p> <p>12 A. It's kind of the same language that we've used,</p> <p>13 maybe not the exact same words, but the same language</p> <p>14 about integrity of the election process. Under current</p> <p>15 law, we don't have the tools. The Secretary of State, as</p> <p>16 well as other law enforcement agencies, testified about</p> <p>17 past and current voter fraud that has been prosecuted.</p> <p>18 Though there are more cases of voter fraud than are</p> <p>19 prosecuted, even one fraudulent vote can cost an</p> <p>20 election.</p> <p>21 <b>Q. And, Representative Harless, can you confirm</b></p> <p>22 <b>the existence of more than one successful prosecution in</b></p> <p>23 <b>the state of Texas concerning in-person voter fraud?</b></p> <p>24 MR. SWEETEN: You can testify about</p> <p>25 matters of public law. Don't reveal privileged matters.</p>	<p>1 <b>Q. We've gone over several of these letters. Did</b></p> <p>2 <b>your office use more than one type of general response to</b></p> <p>3 <b>these voter I.D. questions?</b></p> <p>4 A. Yes.</p> <p>5 MR. SWEETEN: Okay. I have nothing else.</p> <p>6 Thank you.</p> <p>7 MR. FREEMAN: We have follow-up questions.</p> <p>8 MR. ROSENBERG: We're out of time. Go</p> <p>9 ahead.</p> <p>10 EXAMINATION</p> <p>11 BY MR. FREEMAN:</p> <p>12 <b>Q. Okay. My quick follow-up question is,</b></p> <p>13 <b>Representative, how did you decide which responses to</b></p> <p>14 <b>give to which particular constituent?</b></p> <p>15 MR. SWEETEN: Yeah. She's not going to</p> <p>16 give her mental processes about how she responded. She</p> <p>17 can talk about the facts or why she responded a certain</p> <p>18 way. She can't answer as to the communication itself,</p> <p>19 though.</p> <p>20 MR. FREEMAN: Mr. Sweeten, it's not a</p> <p>21 question about a legislative act or the fact that it is a</p> <p>22 legislator's mental process does not necessarily connect</p> <p>23 it to privilege. I believe that this is a question about</p> <p>24 her mental processes concerning political communications</p> <p>25 to constituents.</p>
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<p>1 A. There was testimony in committee about the</p> <p>2 numbers and how many have been prosecuted. I can't tel</p> <p>3 recall if it was -- if it were one or 1,000. I don't</p> <p>4 recall.</p> <p>5 MR. FREEMAN: Okay. I think that's all</p> <p>6 that I have, Representative. I appreciate you coming</p> <p>7 back and finishing up the testimony here. And I</p> <p>8 definitely appreciate your time.</p> <p>9 <b>Q. Just a quick roll out question, do you have any</b></p> <p>10 <b>changes you'd like to make to your testimony today?</b></p> <p>11 A. No, I don't think so.</p> <p>12 <b>Q. Anything that you recall now that you didn't</b></p> <p>13 <b>recall earlier in your deposition?</b></p> <p>14 A. No, sir.</p> <p>15 MR. FREEMAN: Okay. Well, I thank you so</p> <p>16 much.</p> <p>17 I pass the witness. Mr. Sweeten, do you</p> <p>18 have any questions on your end?</p> <p>19 EXAMINATION</p> <p>20 BY MR. SWEETEN:</p> <p>21 <b>Q. Yeah. I've got one question.</b></p> <p>22 <b>Did your office -- In having these constituent</b></p> <p>23 <b>communications, did your office have more than one</b></p> <p>24 <b>general response that it utilized?</b></p> <p>25 A. In what?</p>	<p>1 MR. SWEETEN: Well, I think there is</p> <p>2 potentially some overlap.</p> <p>3 So I'll just instruct her that if you're</p> <p>4 going to give matters of legislative privilege if it</p> <p>5 would reveal your thoughts about the bill, then don't do</p> <p>6 that. But if in answering the question you're not going</p> <p>7 to, then you can.</p> <p>8 A. From looking at the e-mails that you have</p> <p>9 presented as exhibits, they were from the time frame of</p> <p>10 2009 to 2012, and different staff members' names are on</p> <p>11 them. So different staff actually draft the response and</p> <p>12 send it to the constituent. You know, whether the</p> <p>13 language is different because of a different staff person</p> <p>14 or the time frame -- more knowledge, the longer we're --</p> <p>15 you know, I serve in the legislature, I can't say for</p> <p>16 certain. But I know that -- I know that the language is</p> <p>17 different. But the time frame is also extremely</p> <p>18 different from 2009 to 2012.</p> <p>19 MR. SWEETEN: Okay.</p> <p>20 <b>Q. Representative, aren't Exhibit 794 and 795</b></p> <p>21 <b>dated within just a couple of days of each other?</b></p> <p>22 A. They were; they were.</p> <p>23 <b>Q. In fact, the same day?</b></p> <p>24 A. I don't know. One was March 13th when we</p> <p>25 responded; March 13th. But the constituent e-mail was</p>

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1 March 12th and March 12th.	1 I, REPRESENTATIVE PATRICIA HARLESS, have read the
2 MR. FREEMAN: Okay. Thank you. That's	2 foregoing deposition and hereby affix my signature that
3 all that I have.	3 same is true and correct, except as noted above.
4 Mr. Rosenberg, did you have any further	4
5 questions?	5
6 MR. ROSENBERG: No, I didn't.	6
7 And I join in thanking Representative	7
8 Harless for your time. And thank you, Pat.	8 REPRESENTATIVE PATRICIA HARLESS
9 MR. SWEETEN: Thank you.	9
10 (Deposition Ended at 11:08 a.m.)	10
11	11 THE STATE OF _____)
12	12 COUNTY OF _____)
13	13
14	14 Before me, _____, on this
15	15 day personally appeared REPRESENTATIVE PATRICIA HARLESS,
16	16 known to me (or proved to me under oath or through
17	17 _____) (description of identity
18	18 card or other document) to be the person whose name is
19	19 subscribed to the foregoing instrument and acknowledged
20	20 to me that they executed the same for the purposes and
21	21 consideration therein expressed.
22	22 Given under my hand and seal of office this
23	23 _____ day of _____, _____.
24	24
25	25
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1 CHANGES AND SIGNATURE	1 IN THE UNITED STATES DISTRICT COURT
2 NAME OF WITNESS: REPRESENTATIVE HARLESS, VOLUME 2	2 FOR THE DISTRICT OF COLUMBIA
3 DATE OF DEPOSITION: JUNE 13, 2012	3 STATE OF TEXAS, )
4 PAGE LINE CHANGE REASON	4 Plaintiff )
5	5 VS. )
6	6 ERIC H. HOLDER, JR., )
7	7 Attorney General of the )
8	8 United States of America, )
9	9 Defendant )
10	10 ERIC KENNIE, et al, )
11	11 Defendant-Intervenors, )
12	12 TEXAS STATE CONFERENCE ) Case No. 1:12-cv-00128
13	13 OF NAACP BRANCHES, et al, ) RMC-DST-RLW
14	14 Defendant-Intervenors, ) Three-Judge Court
15	15 )
16	16 TEXAS LEAGUE OF YOUNG VOTERS)
17	17 EDUCATION FUND, et al, )
18	18 Defendant-Intervenors, )
19	19 )
20	20 TEXAS LEGISLATIVE BLACK )
21	21 CAUCUS, et al, )
22	22 Defendant-Intervenors, )
23	23 )
24	24 VICTORIA RODRIGUEZ, et al, )
25	25 Defendant-Intervenors. )
	18 REPORTER'S CERTIFICATION
	19 DEPOSITION OF REPRESENTATIVE PATRICIA HARLESS
	20 VOLUME 2
	21 JUNE 13, 2012
	22 I, MELISSA PARKHILL, Certified Shorthand Reporter in
	23 and for the State of Texas, hereby certify to the
	24 following:
	25 That the witness, REPRESENTATIVE PATRICIA HARLESS,
	was duly sworn by the officer and that the transcript of

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<p style="text-align: center;">6</p> <p>1 BRIAN HEBERT,</p> <p>2 having being first duly sworn, testified as follows:</p> <p>3 EXAMINATION</p> <p>4 BY MS. WESTFALL:</p> <p>5 Q. Good morning, Mr. Hebert, how are you?</p> <p>6 A. Well, thanks.</p> <p>7 Q. Could you please state and spell your name for</p> <p>8 the record?</p> <p>9 A. Bryan Hebert. B-R-Y-A-N, H-E-B-E-R-T.</p> <p>10 Q. Have you had your deposition taken before?</p> <p>11 A. No.</p> <p>12 Q. I'm going to explain some ground rules for you so</p> <p>13 you'll understand how the day will go. You've just been</p> <p>14 sworn in by the court reporter and you're here to</p> <p>15 testify truthfully, accurately, and completely. Do you</p> <p>16 understand?</p> <p>17 A. Yes.</p> <p>18 Q. The court reporter will prepare a transcript of</p> <p>19 everything that is said today. So you must wait for me</p> <p>20 to ask my question before you respond so the transcript</p> <p>21 is readable. Do you understand?</p> <p>22 A. Yes.</p> <p>23 Q. By the way, I forgot to introduce myself. I'm</p> <p>24 Elizabeth Westfall. I represent the US Attorney Genera</p> <p>25 in this action.</p> <p>Please, wait for me to finish my question before</p> <p>you answer and I will try to do the same. Do you</p>	<p style="text-align: center;">8</p> <p>1 Q. So during the deposition, I may use the terms</p> <p>2 voter ID and photo ID interchangeably. I want you to</p> <p>3 interpret them as broadly as possible to mean a</p> <p>4 requirement that a voter present a form of</p> <p>5 identification, whether it has a photo on it or not when</p> <p>6 voting in person before being permitted to vote by</p> <p>7 regular ballot. Do you understand?</p> <p>8 A. Yes.</p> <p>9 Q. I may refer to Lieutenant Governor Dewhurst,</p> <p>10 Mr. Dewhurst or the Lieutenant Governor's office and I</p> <p>11 would like you to construe all those as broadly as</p> <p>12 possible to refer to Lieutenant Governor's office. Do</p> <p>13 you understand?</p> <p>14 A. Yes.</p> <p>15 Q. When I refer to the term minority voters, I mean</p> <p>16 voters you are not white or not Anglo. Do you</p> <p>17 understand?</p> <p>18 A. Yes.</p> <p>19 Q. Are you represented by council today?</p> <p>20 A. Yes.</p> <p>21 Q. Who is your council?</p> <p>22 A. Attorney General's Office, Reynolds &amp; Patrick.</p> <p>23 Q. Great. And if I could ask that you just keep</p> <p>24 your voice up so that everyone in the room can hear what</p> <p>25 you are saying.</p>

<p style="text-align: center;">9</p> <p>1 A. Sure.</p> <p>2 Q. Thank you. Have you testified in court before?</p> <p>3 A. No. Other than a traffic offense.</p> <p>4 Q. Hope it turned out well for you.</p> <p>5 Have you ever been involved in a case where the</p> <p>6 State of Texas was a plaintiff or defendant?</p> <p>7 A. No.</p> <p>8 Q. What did you do to prepare for today's</p> <p>9 deposition?</p> <p>10 A. I had a meeting with my council. We met briefly</p> <p>11 this morning. That was it.</p> <p>12 Q. Other than your attorneys, did you speak to</p> <p>13 anyone about your deposition today?</p> <p>14 A. Except to say I'm being deposed, no.</p> <p>15 Q. And who did you say I'm being deposed?</p> <p>16 A. My wife, a few friends, former workers,</p> <p>17 coworkers.</p> <p>18 Q. Did you speak to Governor Dewhurst?</p> <p>19 A. No.</p> <p>20 Q. Did you speak to Ms. Rathgeber?</p> <p>21 A. No.</p> <p>22 Q. Did you speak to Blaine Brunson?</p> <p>23 A. No.</p> <p>24 Q. Who are the former colleagues who you spoke to</p> <p>25 about your deposition?</p>	<p style="text-align: center;">11</p> <p>1 residence?</p> <p>2 A. It is a mile.</p> <p>3 Q. How do you get there?</p> <p>4 A. I walk sometimes and I drive sometimes.</p> <p>5 Q. How long does it take to walk?</p> <p>6 A. 10 minutes, 5 minutes.</p> <p>7 Q. How long does it take to drive?</p> <p>8 A. Less. I mean, I would usually stop on the way</p> <p>9 back from work so I'm not really timing it from my</p> <p>10 residence.</p> <p>11 Q. Have you ever, while you've been voting in a</p> <p>12 polling location, witnessed anyone trying to impersonate</p> <p>13 another voter?</p> <p>14 A. No.</p> <p>15 Q. Have you ever witnessed a noncitizen voting?</p> <p>16 A. Not that I know of.</p> <p>17 Q. Have you personally ever challenged a voter's</p> <p>18 eligibility to vote?</p> <p>19 A. No.</p> <p>20 Q. Could you tell me your educational background,</p> <p>21 please, starting with college.</p> <p>22 A. I graduated from Louisiana State University with</p> <p>23 a degree in political science. Went to law school at</p> <p>24 Washington University in Saint Louis. Graduated from</p> <p>25 with a JD.</p>
<p style="text-align: center;">10</p> <p>1 A. Doug Davis, Karina Davis. Those are probably the</p> <p>2 only ones.</p> <p>3 Q. And could you describe your conversation with</p> <p>4 Ms. Davis?</p> <p>5 A. It was -- actually saw her in the lobby going</p> <p>6 into meet with my council and said, oh, you're here,</p> <p>7 too. And that was it.</p> <p>8 Q. That was the sum total of the conversation?</p> <p>9 A. That's right.</p> <p>10 Q. Did you talk about the substance of what you</p> <p>11 intended to testify about?</p> <p>12 A. No.</p> <p>13 Q. Did you bring any notes or documents with you</p> <p>14 here today?</p> <p>15 A. No.</p> <p>16 Q. And are the papers over there in front of</p> <p>17 Mr. Sweeten, are those Mr. Sweeten's or yours?</p> <p>18 A. Mr. Sweeten's.</p> <p>19 Q. When is the last time you voted?</p> <p>20 A. In the primary, early voting just a couple weeks</p> <p>21 ago.</p> <p>22 Q. Do you usually vote by early voting or in person</p> <p>23 on election day?</p> <p>24 A. I would say I usually vote election day.</p> <p>25 Q. And how far is your polling place from your</p>	<p style="text-align: center;">12</p> <p>1 Q. What year did you graduate from law school?</p> <p>2 A. 1998.</p> <p>3 Q. Are you licensed to practice law?</p> <p>4 A. Yes.</p> <p>5 Q. In which states are you admitted to the bar?</p> <p>6 A. Texas.</p> <p>7 Q. Any other states?</p> <p>8 A. No.</p> <p>9 Q. Do you list an employer with your bar membership?</p> <p>10 A. Yes.</p> <p>11 Q. And who is that employer?</p> <p>12 A. Today it is myself.</p> <p>13 Q. Since you graduated from law school in 1998,</p> <p>14 could you tell me every single job that you've held in</p> <p>15 chronological order?</p> <p>16 A. My first job was with the Texas Legislative</p> <p>17 Council, which is a non partisan drafting legal agency</p> <p>18 here at the capital. I worked there for 8 years and</p> <p>19 then took a position with Lieutenant Governor, David</p> <p>20 Dewhurst, and I was with him for 5 years. And then this</p> <p>21 January I left to do political consulting.</p> <p>22 Q. Could you describe the Legislative Council?</p> <p>23 A. Sure. It's 200 people total. Research document</p> <p>24 production and legal, maybe it's 400, the legal division</p> <p>25 is about 50 attorneys, at least it was when I was there.</p>

<p style="text-align: center;">13</p> <p>1 And they're basically the sort of law firm for the</p> <p>2 Legislature. So any drafting request for bills, any</p> <p>3 legal advice, constitutional advice, procedural advice,</p> <p>4 the Legislative Council exists to help the legislatures</p> <p>5 pass bills and serve their constituents. They're non</p> <p>6 partisan so it's Republican/Democrat Committee</p> <p>7 legislator, Governor, Lieutenant Governor in some cases.</p> <p>8 Yeah.</p> <p>9 Q. And what years were you there specifically at the</p> <p>10 council?</p> <p>11 A. I would have been there from '98 to I guess '05.</p> <p>12 Q. Does the council serve --</p> <p>13 A. Sorry. It would have been '07.</p> <p>14 Q. My apologies.</p> <p>15 A. Sorry.</p> <p>16 Q. I broke my own rule already. You described the</p> <p>17 council as serving as a law firm for the Legislature; is</p> <p>18 that right?</p> <p>19 A. That's how most people think of it, yes.</p> <p>20 Q. Does the council serve any other role other than</p> <p>21 a law firm. For example, does it provide strategic</p> <p>22 advice?</p> <p>23 A. I would say, no, except to the extent, you know,</p> <p>24 they would help members navigate bills through the</p> <p>25 legislative process. So, you know, I would say that</p>	<p style="text-align: center;">15</p> <p>1 voter ID?</p> <p>2 A. I'm not aware.</p> <p>3 Q. You don't know a single person? You couldn't</p> <p>4 name anyone?</p> <p>5 A. The only person I know that still works there is</p> <p>6 Carey Eskridge and I don't know that he worked on this</p> <p>7 issue or not.</p> <p>8 Q. When you were working for the Lieutenant</p> <p>9 Governor, did you work with anyone in the research</p> <p>10 division of the Legislative Council on voter ID?</p> <p>11 A. No.</p> <p>12 Q. Does the council have a governing body?</p> <p>13 A. Yes.</p> <p>14 Q. What's the role of the governing body?</p> <p>15 A. As I understand it, it's sort of like a Committee</p> <p>16 of the legislators and they approve hiring of the</p> <p>17 director. Maybe budget issues. That's all I know.</p> <p>18 Q. Do you know who sits on the governing body?</p> <p>19 A. I don't know the current makeup of it, no.</p> <p>20 Q. Does the Lieutenant Governor always play a role</p> <p>21 in the governing body?</p> <p>22 A. Yes, I believe so.</p> <p>23 Q. Do you know what Mr. Dewhurst responsibilities</p> <p>24 are in that capacity?</p> <p>25 A. I'm not aware.</p>
<p style="text-align: center;">14</p> <p>1 providing strategic advice in the sense of you should do</p> <p>2 this is not something that council does. It's not their</p> <p>3 role.</p> <p>4 Q. Does it provide policy assistance to</p> <p>5 legislatures?</p> <p>6 A. Again, other than sort of laying out the options</p> <p>7 that a legislator might have or doing research on what</p> <p>8 other states do, no.</p> <p>9 Q. Are there staff members who are not lawyers who</p> <p>10 work for the council?</p> <p>11 A. Yes. Because they are different departments</p> <p>12 within Legislative Council. So there's a legal</p> <p>13 division, research division, document production</p> <p>14 division, human resources and maybe one more.</p> <p>15 Q. What does the research division do?</p> <p>16 A. Whatever legislators request. So please tell me</p> <p>17 what the 50 states do on this issue or what is the</p> <p>18 history of Texas action on this given issue.</p> <p>19 Q. So people in the research division are not</p> <p>20 lawyers; is that correct?</p> <p>21 A. I believe none of them are lawyers. Maybe there</p> <p>22 are now, but I don't think so. Certainly not a</p> <p>23 requirement is my memory.</p> <p>24 Q. Are you aware of persons in the research</p> <p>25 department who provided advice to legislators about</p>	<p style="text-align: center;">16</p> <p>1 Q. And who would know?</p> <p>2 A. Maybe our general counsel. Our meaning</p> <p>3 Lieutenant Governor Dewhurst general counsel.</p> <p>4 Q. Who is that person?</p> <p>5 A. Frank Battle.</p> <p>6 Q. So I believe you were testifying it's</p> <p>7 nonpartisan; is that correct?</p> <p>8 A. Correct.</p> <p>9 Q. Do staff people serve -- is there -- strike that.</p> <p>10 Is there a majority and minority staff?</p> <p>11 A. No.</p> <p>12 Q. So does staff serve both sides of the isle so to</p> <p>13 speak?</p> <p>14 A. Correct.</p> <p>15 Q. When a staff person drafts a bill, is he or she</p> <p>16 also responsible for drafting amendments to the bill?</p> <p>17 MR. SWEETEN: Objection. I think it's --</p> <p>18 the question is vague and general. I'm going to let you</p> <p>19 answer that question. Go ahead.</p> <p>20 A. Typically the same person who drafted the bill</p> <p>21 would draft the amendments because they're most familiar</p> <p>22 with that legislation. On a very large bill it wouldn't</p> <p>23 be uncommon to have other people draft amendments and</p> <p>24 then further complicate it, everyday during session</p> <p>25 they've got a few Legislative Council attorneys that sit</p>

<p style="text-align: center;">17</p> <p>1 on the House floor and so, sort of, last second</p> <p>2 amendments may have been drafted by someone not involved</p> <p>3 through out the process.</p> <p>4 Q. (By MS. WESTFALL) Do you know with regard to</p> <p>5 Senate Bill 14 the name of the person at the legislative</p> <p>6 council whole was involved in drafting?</p> <p>7 A. My memory is that there are two attorneys that</p> <p>8 were primarily in charge of election laws and this bill.</p> <p>9 Jennifer Jackson and David Hanna.</p> <p>10 Q. Did those persons also draft the amendments to</p> <p>11 Senate Bill 14?</p> <p>12 A. I don't know.</p> <p>13 Q. But based on your testimony that you just</p> <p>14 provided, is it your inference that they would have</p> <p>15 drafted the amendments?</p> <p>16 MR. SWEETEN: Objection, calls for</p> <p>17 speculation. Go ahead.</p> <p>18 A. I think they probably would have.</p> <p>19 Q. (By MS. WESTFALL) Was there any concern or, I</p> <p>20 guess, is there any concern about maintaining</p> <p>21 confidentiality when you have someone in the Legislative</p> <p>22 Council drafting the bill and you have bill opponents</p> <p>23 who are drafting amendments?</p> <p>24 MR. SWEETEN: You're asking as a general</p> <p>25 matter?</p>	<p style="text-align: center;">19</p> <p>1 bill with Legislative Council and the sponsor.</p> <p>2 Q. I see. So it's your testimony that you -- there</p> <p>3 weren't necessarily any strict walls between</p> <p>4 communications you had with legislatures who wanted</p> <p>5 amendments to be drafted, versus the legislator who</p> <p>6 sponsored the bill; is that right?</p> <p>7 MR. SWEETEN: Objection, vague.</p> <p>8 A. Yeah, again. I'm not clear exactly what you're</p> <p>9 getting at.</p> <p>10 Q. (By MS. WESTFALL) Let me try again.</p> <p>11 A. Sure.</p> <p>12 Q. I believe you just testified that sometimes you</p> <p>13 would share information with a bill sponsor about</p> <p>14 amendments that were being contemplated; is that</p> <p>15 correct?</p> <p>16 A. Sure.</p> <p>17 Q. You testified that the council has a legal</p> <p>18 division; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. Could you tell me what the legal division does as</p> <p>21 opposed to the other sections of the council?</p> <p>22 A. During session the legal division spends the bulk</p> <p>23 of their time drafting bills and amendments and</p> <p>24 assisting with, sort of, procedural questions.</p> <p>25 Q. And when they're not in session, what does the</p>
<p style="text-align: center;">18</p> <p>1 MS. WESTFALL: Yes.</p> <p>2 MR. SWEETEN: You an answer as a general</p> <p>3 matter.</p> <p>4 A. I can say from my own experience as an attorney,</p> <p>5 yeah, the training of a legislative council attorney is</p> <p>6 something that we spent a lot of time on was, you know,</p> <p>7 sort of, building these walls that each bill has its on</p> <p>8 clients, yeah.</p> <p>9 Q. So in other words, you did not share information</p> <p>10 with the bill sponsor about amendments you were</p> <p>11 drafting. Is that your testimony?</p> <p>12 MR. SWEETEN: Objection. I think assumes</p> <p>13 facts not in evidence. I'm not even clear on the</p> <p>14 question. So objection vague. You can answer to the</p> <p>15 extent you can.</p> <p>16 A. Could you repeat the -- I'm also unclear what</p> <p>17 you're asking.</p> <p>18 Q. (By MS. WESTFALL) Could you read back the</p> <p>19 question?</p> <p>20 (Requested question was read.)</p> <p>21 A. Right. To the extent I was writing an amendment</p> <p>22 or assisting with an amendment, I probably communicated</p> <p>23 with the bill sponsor. I don't recall ever passing</p> <p>24 messages back and forth between unless, again, it's</p> <p>25 possible there was some general communications about the</p>	<p style="text-align: center;">20</p> <p>1 legal division do?</p> <p>2 A. They have an ongoing code -- provision project</p> <p>3 where they take sort of old and antiquated statutes and</p> <p>4 modernize them, do intern legal research projects.</p> <p>5 Q. Are there any other responsibilities the legal</p> <p>6 division has that you haven't already testified about?</p> <p>7 MR. SWEETEN: Again, as a general matter not</p> <p>8 a specific Legislature you can answer.</p> <p>9 A. Sure. They may do other things now. I know when</p> <p>10 I was there that was the primary interim activity.</p> <p>11 Q. (By MS. WESTFALL) When you were employed with</p> <p>12 the council, what were your responsibilities?</p> <p>13 A. I was a Legislative Counsel, C-O-U-N-S-E-L, and I</p> <p>14 did all the things I just described, drafted bills and</p> <p>15 amendments and provided legal advice and assisted with</p> <p>16 the interim code projects and random special intern</p> <p>17 research projects.</p> <p>18 Q. Did you work on any legislation related to photo</p> <p>19 ID when you were in the council?</p> <p>20 A. I don't believe so. I don't think I did. And I</p> <p>21 say I don't believe so because we would draft hundreds</p> <p>22 and hundreds of bills and amendments when I was there</p> <p>23 8 years. I don't think I did election law or much of it</p> <p>24 when I was there, not as a drafter.</p> <p>25 Q. Did you have an active bar license when you were</p>

<p style="text-align: center;">21</p> <p>1 with the council?</p> <p>2 A. Yes. I'm sorry. There may have been a window at</p> <p>3 the very, very beginning where my bar results came in</p> <p>4 November, but I started in October or something, but</p> <p>5 generally speaking, yes.</p> <p>6 Q. Could you describe -- and did you provide legal</p> <p>7 advice while you were employed with the council?</p> <p>8 A. Yes.</p> <p>9 Q. Could you describe that legal advice?</p> <p>10 MR. SWEETEN: I'm going object as to</p> <p>11 attorney/client privilege. As council for the TLC don't</p> <p>12 disclose any specific legal advice that you provided</p> <p>13 within that job.</p> <p>14 Q. (By MS. WESTFALL) And to clarify, I'm not asking</p> <p>15 you for the legal advice. I'm asking you to describe</p> <p>16 the nature of the advice that you provided, not the</p> <p>17 specifics.</p> <p>18 A. Sure.</p> <p>19 MR. SWEETEN: If you can answer it without</p> <p>20 revealing the substance of the communications as a</p> <p>21 general matter, you can answer it. But if you're</p> <p>22 required to provide substantive information, do not</p> <p>23 answer the question.</p> <p>24 A. Sure. I mean, it would typically be in relation</p> <p>25 to a piece of legislation is this constitutional, does</p>	<p style="text-align: center;">23</p> <p>1 MR. SWEETEN: Don't reveal the substance of</p> <p>2 any communication. Are you asking him as a general</p> <p>3 matter? But don't reveal any specific communications</p> <p>4 regarding any sort of bill with any legislators.</p> <p>5 A. I'm not sure what you mean by agreement.</p> <p>6 Q. (By MS. WESTFALL) An agreement to provide</p> <p>7 services, legal services?</p> <p>8 A. I mean, that's the way that the Legislative</p> <p>9 Council operates is the staff of attorneys -- and I'm</p> <p>10 sure there is some statutory language that I'm</p> <p>11 forgetting that says the Legislative Counsel exists to</p> <p>12 provide legal and other advice to legislatures.</p> <p>13 Q. So is it your testimony that the statute is the</p> <p>14 sole source of the agreement between the council and</p> <p>15 legislators as to the provision of legal services?</p> <p>16 A. I would say that's not my testimony. There is</p> <p>17 probably some statutory authority is all I'm saying.</p> <p>18 Q. But are you aware of any other agreements either</p> <p>19 oral or written about the provision of legal services</p> <p>20 between the council and the legislators?</p> <p>21 A. I guess I'm not aware.</p> <p>22 Q. Does the counsel provided advice on whether --</p> <p>23 strike that.</p> <p>24 Are you aware of the counsel having provided</p> <p>25 advice to any legislator on whether a bill complies with</p>
<p style="text-align: center;">22</p> <p>1 this conflict with common law or some other statutory</p> <p>2 precedent or anything else. Again, it would usually be</p> <p>3 tailored to what is this bill and is it okay.</p> <p>4 Q. And you would provide that advice in response to</p> <p>5 what kind of inquiry?</p> <p>6 A. Usually a phone call or a meeting with a staffer</p> <p>7 or a legislator.</p> <p>8 Q. Did you provide any advice in that regard</p> <p>9 pertaining to Section 5 of the Voting Rights Act?</p> <p>10 A. As a Legislative Council Attorney?</p> <p>11 Q. Yes?</p> <p>12 MR. SWEETEN: You can answer that question</p> <p>13 yes or no. Just don't provide the substance of any</p> <p>14 communication.</p> <p>15 A. Not that I recall.</p> <p>16 Q. What was your title at the council?</p> <p>17 A. Legislative Counsel and then they would have one,</p> <p>18 two, three, four. So Legislative Counsel one is where</p> <p>19 you start. I think I may have been Legislative Counsel</p> <p>20 three when I left.</p> <p>21 Q. Were you -- did you ever have the title of policy</p> <p>22 analyst at the council?</p> <p>23 A. No.</p> <p>24 Q. Did you have any agreement with the legislatures</p> <p>25 or staff to whom you provided legal advice?</p>	<p style="text-align: center;">24</p> <p>1 Section 5 of the Voting Rights Act?</p> <p>2 A. I'm not aware.</p> <p>3 Q. Did you handle election laws while you were</p> <p>4 employed with you counsel?</p> <p>5 MR. SWEETEN: Objection, asked and answered</p> <p>6 A. No.</p> <p>7 Q. (By MS. WESTFALL) Are you aware of who did at</p> <p>8 the council handle election laws?</p> <p>9 A. I think I said Jennifer Jackson and David Hanna.</p> <p>10 Q. Was that while you were employed at the council</p> <p>11 or subsequent to that time or both?</p> <p>12 A. Both. Jennifer started after I did so there may</p> <p>13 have been -- I forget who else may have been doing</p> <p>14 election law while I was there?</p> <p>15 Q. Did you ever have any conversations with</p> <p>16 Ms. Jackson or Mr. Hanna concerning Section 5 of the</p> <p>17 Voting Rights Act?</p> <p>18 MR. SWEETEN: You're asking while he was at</p> <p>19 Texas Legislative Council.</p> <p>20 MS. WESTFALL: Yes.</p> <p>21 A. Not that I recall.</p> <p>22 BY MS. WESTFALL:</p> <p>23 Q. Was there a time when you became employed by</p> <p>24 Mr. Dewhurst?</p> <p>25 A. Yes.</p>

<p style="text-align: center;">25</p> <p>1 Q. And in what capacity were you first employed with</p> <p>2 Mr. Dewhurst?</p> <p>3 A. My initial title was council for public policy.</p> <p>4 And then after one session I became deputy general</p> <p>5 counsel.</p> <p>6 Q. What year did you start working for him as</p> <p>7 council for public policy?</p> <p>8 A. '07, January '07.</p> <p>9 Q. How did your relationship with Mr. Dewhurst</p> <p>10 arise?</p> <p>11 MR. SWEETEN: Objection, vague. Go ahead.</p> <p>12 A. While at Legislative Council, I drafted a fair</p> <p>13 number of bills related to school finance. I worked</p> <p>14 closely with his staff. So I built a relationship with</p> <p>15 staff and they had an opening and let me know.</p> <p>16 Q. When in 2007 did you start working for</p> <p>17 Mr. Dewhurst?</p> <p>18 A. January I believe.</p> <p>19 Q. Who did you report to at that time?</p> <p>20 A. Julia Rathgeber was the policy director.</p> <p>21 Q. Could you describe the structure of</p> <p>22 Mr. Dewhurst's office when you started working for him</p> <p>23 in 2007?</p> <p>24 A. Governor Dewhurst, chief of staff, policy</p> <p>25 director, there was a budget director and then a dozen</p>	<p style="text-align: center;">27</p> <p>1 part of my responsibility included general government</p> <p>2 issues which occasionally flavored into election stuff,</p> <p>3 but not really conduct of elections, more sort of the</p> <p>4 big picture stuff.</p> <p>5 Q. Would you describe yourself as coming to the job</p> <p>6 with Mr. Dewhurst as not having a lot of familiarity</p> <p>7 with election law?</p> <p>8 A. I would not describe it that way. I had also</p> <p>9 been a lawyer and political science major and law school</p> <p>10 graduate so to the extent I was familiar with it.</p> <p>11 Q. Did you familiarity with State election code at</p> <p>12 that time?</p> <p>13 A. I was familiar with it, yes.</p> <p>14 Q. Did you understand code as it pertained to voter</p> <p>15 registration and election day procedures?</p> <p>16 MR. SWEETEN: Objection vague. Go ahead you</p> <p>17 can answer.</p> <p>18 A. Sure. And certainly meeting with the Secretary</p> <p>19 of State's office that familiarity increased.</p> <p>20 Q. (By MS. WESTFALL) When did you meet with the</p> <p>21 Secretary of State's office?</p> <p>22 A. As part of my role with Governor Dewhurst I was,</p> <p>23 sort of, the point person with that office for the</p> <p>24 5 years there.</p> <p>25 Q. Guess I'm directing your attention to the time</p>
<p style="text-align: center;">26</p> <p>1 or more staff, policy staff and a general counsel.</p> <p>2 Q. And how large was the office in whole?</p> <p>3 A. 30, 35 people, something like that.</p> <p>4 Q. Were you hired to handle a particular issue area?</p> <p>5 A. No. I mean, I'll say that the way -- within the</p> <p>6 structured question, each staff member would be in</p> <p>7 charge of certain committees or in some cases issues.</p> <p>8 In my case, I had two or three committees that I was in</p> <p>9 charge of which encompassed a whole range of issues.</p> <p>10 Q. Could you identify those committees?</p> <p>11 A. Sure. The Senate State Affairs Committee, the</p> <p>12 Senate Jurors Prudence Committee, there may have been</p> <p>13 one more. Every one, sort of, got involved in the</p> <p>14 budget process. So to a lesser extent the finance</p> <p>15 Committee.</p> <p>16 Q. When you were heard by Mr. Dewhurst, did you have</p> <p>17 anyone -- did you have any conversations with anyone in</p> <p>18 his office concerning the fact that you would be</p> <p>19 handling voter ID as an issue?</p> <p>20 A. I don't remember it being specifically discussed,</p> <p>21 except that I would be handling some election issues.</p> <p>22 Q. Did you have any familiarity or background with</p> <p>23 election issues before you started working for</p> <p>24 Mr. Dewhurst?</p> <p>25 A. As a lawyer, yes. And at Legislative Council</p>	<p style="text-align: center;">28</p> <p>1 before you started working for Mr. Dewhurst, did you</p> <p>2 have any contact with the Secretary of State's office?</p> <p>3 A. Not that I recall.</p> <p>4 Q. Did you have any background in federal election</p> <p>5 laws, other than law school, of course?</p> <p>6 A. Right. No.</p> <p>7 Q. When you became council for public policy, did</p> <p>8 you have a written job description?</p> <p>9 A. I think no, not that I recall.</p> <p>10 Q. With regard to your responsibilities for the</p> <p>11 State Affairs Committee, could you describe those</p> <p>12 responsibilities?</p> <p>13 A. Sure. Attending Committee meetings, working with</p> <p>14 the staff and Senators on those committees, reporting</p> <p>15 back to the Lieutenant Governor's office on what</p> <p>16 billings were proceeding or substance of those bills.</p> <p>17 Q. He did not sit on the Committee, correct?</p> <p>18 A. Correct.</p> <p>19 Q. You would simply go to the meetings and report</p> <p>20 back as to what happened; is that right?</p> <p>21 A. Correct.</p> <p>22 Q. Could you identify every person in Mr. Dewhurst's</p> <p>23 office who handled the issue of voter ID from when you</p> <p>24 were hired in 2007 until you stopped working for</p> <p>25 Mr. Dewhurst?</p>



<p style="text-align: center;">29</p> <p>1 A. Myself. That's it. I conferred occasionally</p> <p>2 with our general counsel, Frank Battle. And when you</p> <p>3 say handled voter ID, I mean, you know, the chief of</p> <p>4 staff and the policy director would have been aware of</p> <p>5 that bill just like they were aware of every bill coming</p> <p>6 through the Senate. But I wouldn't characterize it as</p> <p>7 handling voter ID.</p> <p>8 Q. So you mean you handled the substance of the bill</p> <p>9 for Mr. Dewhurst; is that right?</p> <p>10 MR. SWEETEN: Okay. Just -- I want to make</p> <p>11 clear that with respect to your thoughts and mental</p> <p>12 impressions with respect to the bill that passed, we're</p> <p>13 getting into areas, I don't think we're there yet, but</p> <p>14 that could be covered by legislative privilege and</p> <p>15 therefore you can discuss if you had a communication,</p> <p>16 you can answer general matters, but don't reveal</p> <p>17 specific thoughts and mental impressions with respect to</p> <p>18 a specific bill as to voter ID. But with that, you can</p> <p>19 go ahead and answer the question.</p> <p>20 A. I think I handled the bulk of election</p> <p>21 legislation or at least the analysis and the processing</p> <p>22 of it. And that would include voter ID.</p> <p>23 Q. (By MS. WESTFALL) Was there anything else or was</p> <p>24 it a general category of activity that you had</p> <p>25 associated with handling election legislation besides</p>	<p style="text-align: center;">31</p> <p>1 then -- let's see now Blaine Brunson and before that Rob</p> <p>2 Johnson.</p> <p>3 Q. Okay. So with regard to Mr. Brunson, what was</p> <p>4 his role pertaining to voter ID.</p> <p>5 MR. SWEETEN: Same objection. I'm also</p> <p>6 going to instruct with respect to communications you've</p> <p>7 had internally with Lieutenant Governor's office, you</p> <p>8 being an attorney that those are potentially protected</p> <p>9 by the attorney/client privilege. We've discussed</p> <p>10 already the legislative privilege. So to the extent you</p> <p>11 can answer these questions without revealing matters</p> <p>12 that are privileged, then you can do so. Okay.</p> <p>13 A. So the question.</p> <p>14 Q. What did Mr. Brunson generally do with regard to</p> <p>15 voter ID? What were his responsibilities.</p> <p>16 A. I don't know because he didn't tell me all his</p> <p>17 responsibilities, but what I saw him do as I just</p> <p>18 mentioned; received status updates and shepherd</p> <p>19 Lieutenant Governor's policies.</p> <p>20 Q. As a council for public policy, did you solely</p> <p>21 report to Ms. Rathgeber?</p> <p>22 A. I directly reported to her, but the chief of</p> <p>23 staff obviously was my supervisor as well.</p> <p>24 Q. How long did you serve as a council for public</p> <p>25 policy?</p>
<p style="text-align: center;">30</p> <p>1 analysis and sort of processing of drafts?</p> <p>2 A. No.</p> <p>3 Q. Did you have a press person on staff who issued</p> <p>4 press releases regarding voter ID for Mr. Dewhurst?</p> <p>5 A. Yes.</p> <p>6 Q. Who was that person?</p> <p>7 A. It would have been several people over the 5 year</p> <p>8 period. Mike Walz, W-A-L-Z, I think is the still</p> <p>9 current press secretary. Then Mike Wintemute and Rich</p> <p>10 Parsons were communications guys when I first started.</p> <p>11 Q. Could you generally describe the role of the</p> <p>12 chief of staff with regard to voter ID while you were in</p> <p>13 office?</p> <p>14 MR. SWEETEN: You can answer. Now, she's</p> <p>15 asked about specifically about voter ID. So don't</p> <p>16 reveal in your answer thoughts, mental impressions or</p> <p>17 conversations you've had with anybody. If you can</p> <p>18 answer a question without doing so you can go ahead and</p> <p>19 do it.</p> <p>20 A. All right. I think from my perspective and I</p> <p>21 don't know all that he did, I mean, I would report back</p> <p>22 to status updates like I would with any legislation.</p> <p>23 Q. (By MS. WESTFALL) And with regard to -- so are</p> <p>24 you referring to Ms. Rathgeber?</p> <p>25 A. You asked about the chief of staff which would be</p>	<p style="text-align: center;">32</p> <p>1 A. My title changed after my first session there.</p> <p>2 So it would have been '08 or '09. I honestly can't</p> <p>3 remember when that switch happened.</p> <p>4 Q. And with regard to Mr. Brunson, was his role for</p> <p>5 voter ID different from his role with regard to other</p> <p>6 legislation?</p> <p>7 MR. SWEETEN: In answering this question,</p> <p>8 don't reveal thoughts, mental impressions or opinions</p> <p>9 about legislation or in furtherance of the legislative</p> <p>10 process including Senate Bill 14.</p> <p>11 A. I don't think it was different.</p> <p>12 Q. (By MS. WESTFALL) So I'm sorry. You said after</p> <p>13 you had served as a council for public policy, there was</p> <p>14 a time when you changed your job titles; is that right?</p> <p>15 A. Correct. I was promoted to deputy general</p> <p>16 counsel.</p> <p>17 Q. And when did that occur?</p> <p>18 A. Again, I think it must have been '08 or '09. It</p> <p>19 was after the first session I was there which began in</p> <p>20 January '07.</p> <p>21 Q. When you were council for public policy, did you</p> <p>22 have an attorney client relationship with the Lieutenant</p> <p>23 Governor, yourself?</p> <p>24 A. Yes.</p> <p>25 Q. What was the basis of that relationship?</p>

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- 1 A. He employed me as an attorney.  
 2 Q. Did you have any written or oral agreement?  
 3 A. No, not that I'm aware.  
 4 Q. Were you serving as his attorney with regard to  
 5 all aspects of your employment as council for public  
 6 policy?  
 7 A. I'm not sure what you mean.  
 8 Q. I mean, were there certain responsibilities for  
 9 which you were providing him legal advice and serving as  
 10 his attorney in certain parts of your job where you were  
 11 not functioning as an attorney for the Lieutenant  
 12 Governor?  
 13 A. I guess it's possible. But, again, to the extent  
 14 I was communicating with him, they were almost always  
 15 generally speaking, have been some legal analysis. So  
 16 that's why I was there as an attorney.  
 17 Q. So in other words there was no differentiation of  
 18 your rolls?  
 19 A. Certainly no formal differentiation.  
 20 Q. And sitting here today, you can't think of any  
 21 role in which you were not serving as an attorney for  
 22 Mr. Dewhurst as council for public policy?  
 23 A. I can't think of any, no.  
 24 Q. Did your -- strike that.  
 25 Did you consider yourself as having an attorney

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- 1 client relationship with members of the Legislature and  
 2 their staff?  
 3 A. Members -- you mean, House and Senate members and  
 4 their staffs?  
 5 Q. Yes. Other members of the --  
 6 A. Probably not. Probably not.  
 7 Q. Could you describe your responsibilities as  
 8 deputy general counsel?  
 9 A. Very, very similar as council for public policy.  
 10 Just with a new title and a bigger paycheck.  
 11 Q. Can you think of any ways, other than the things  
 12 you've just described, more pay, in which they differed?  
 13 A. No, not really. I will say, at this point I  
 14 began taking a larger role in Open Records request.  
 15 Q. Did your Committee assignments change at all or  
 16 did they remain the same?  
 17 A. They remained the same.  
 18 Q. How long did you serve as deputy general counsel  
 19 for Mr. Dewhurst?  
 20 A. Until I left. So that would have been about  
 21 3 years.  
 22 Q. And did you the have the same attorney  
 23 relationship with Lieutenant Governor during that period  
 24 of time as deputy general counsel as you did as a  
 25 counsel for public policy?

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- 1 A. Yes.  
 2 Q. In no way, shape, or form it differed; is that  
 3 correct?  
 4 A. I think that's correct.  
 5 Q. Did you provide any strategic advice to  
 6 Mr. Dewhurst?  
 7 MR. SWEETEN: I'm going to object to the  
 8 question as vague. Also don't reveal the substance of  
 9 any communications you've had with Mr. Dewhurst or  
 10 members of that office.  
 11 A. I mean, over 5 years the vast majority, at least  
 12 what I would remember of anything that could be called  
 13 strategic advice would have been sort of legal strategy  
 14 or legislative procedural strategy.  
 15 Q. (By MS. WESTFALL) Is it your testimony you never  
 16 provided any political strategic advice to Mr. Dewhurst,  
 17 ever?  
 18 MR. SWEETEN: Objection to the question as  
 19 vague. Also objection to the extent you're asking him  
 20 to reveal the specific substance of communications he's  
 21 had with Lieutenant Governor Dewhurst or other members  
 22 of Lieutenant Governor's office. If you can answer  
 23 without revealing the substance of those communications  
 24 you can do so. Otherwise I instruct you not to answer.  
 25 MS. WESTFALL: I'm going to object to your

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- 1 objection. I'm asking him about his roles and  
 2 responsibilities. I'm not asking him about the content  
 3 of those discussions. I would ask you to withdraw that  
 4 objection, Mr. Sweeten.  
 5 MR. SWEETEN: I think I've already allowed  
 6 you to ask him questions about the general subject  
 7 matter of the role. And I'm also allowing him to answer  
 8 this to the extent it doesn't require him to reveal  
 9 communications between he and the Lieutenant Governor or  
 10 Lieutenant Governor's staff. So I will not withdraw the  
 11 objection.  
 12 MS. WESTFALL: I'm asking about the  
 13 existence of strategic discussions and not the content.  
 14 Do you understand the question?  
 15 A. I do.  
 16 BY MS. WESTFALL:  
 17 Q. Can you answer the question?  
 18 MR. SWEETEN: Objection, vague, same  
 19 instruction. You can answer it to the extent you can.  
 20 A. I think I'll just repeat what I said. You asked  
 21 about political strategy. I think to the extent of my  
 22 discussions with him and staff would have been legal and  
 23 procedural.  
 24 Q. So there's -- you never gave him strategic advice  
 25 that wasn't legal; is that right.

<p style="text-align: center;">45</p> <p>1 Q. Do you recall what that news article was about?</p> <p>2 A. No.</p> <p>3 Q. Do you see again that it list Bryan Herbert,</p> <p>4 Senator, Author, and Bryan Herbert as recipient?</p> <p>5 A. Yes.</p> <p>6 Q. Do you know to whom you were sending this e-mail?</p> <p>7 A. I don't know.</p> <p>8 Q. Could you tell me who Daniel Hodge is?</p> <p>9 A. He is, I think, currently the first assistant to</p> <p>10 the Texas Attorney General.</p> <p>11 Q. Who is Jerry Bonay?</p> <p>12 A. The name is not ringing a bell.</p> <p>13 Q. Turning your attention to Page 437 of this</p> <p>14 document, three entries down at Texas 34472, do you see</p> <p>15 that?</p> <p>16 A. Yes.</p> <p>17 Q. And do you see that it list the sender author of</p> <p>18 that document as Jerry Bonay and that you were the</p> <p>19 recipient?</p> <p>20 A. Yes.</p> <p>21 Q. Does that refresh your recollection as to who</p> <p>22 Mr. Bonay?</p> <p>23 A. It's -- my guess is that he would be an election</p> <p>24 official from Indiana, but I'm not sure of that.</p> <p>25 Q. From the description of the e-mail does that</p>	<p style="text-align: center;">47</p> <p>1 A. When you -- what do you mean when you say set the</p> <p>2 agenda?</p> <p>3 Q. He doesn't present an agenda and then the Senate</p> <p>4 must execute it pursuant to his authority; is that</p> <p>5 right?</p> <p>6 A. I think that's right.</p> <p>7 Q. Was -- strike that.</p> <p>8 Was Mr. Dewhurst a member of the State Affairs</p> <p>9 Committee in 2007?</p> <p>10 A. The Lieutenant Governor does not serve on</p> <p>11 committees so no.</p> <p>12 Q. So he was not a member of that Committee at any</p> <p>13 time, correct?</p> <p>14 A. Correct.</p> <p>15 Q. Could you describe Mr. Dewhurst's authorities or</p> <p>16 roles pursuant to the Senate rules in the State Affairs</p> <p>17 Committee?</p> <p>18 MR. SWEETEN: As a general matter.</p> <p>19 Q. (By MS. WESTFALL) As a general matter.</p> <p>20 A. He appoints the members of that Committee and</p> <p>21 then extent to which any bills from any Committee are</p> <p>22 considered on the Senate floor that's because they're</p> <p>23 recognized for that purpose by the Lieutenant Governor.</p> <p>24 Q. Can he call a Committee hearing for the State</p> <p>25 Affairs Committee?</p>
<p style="text-align: center;">46</p> <p>1 refresh your recollection as to what this document is?</p> <p>2 A. No.</p> <p>3 Q. Could you tell me who Jennifer Fagan is?</p> <p>4 A. She still is, I think, either general counsel or</p> <p>5 director of the Senate State Affairs Committee.</p> <p>6 Q. Who does she report to?</p> <p>7 A. Senate or the Robert Duncan.</p> <p>8 Q. Is she Committee staff person or is she personal</p> <p>9 staff for Mr. Duncan?</p> <p>10 A. I think maybe both actually.</p> <p>11 Q. Who is David Duran?</p> <p>12 A. He is a budget analyst for Lieutenant Governor</p> <p>13 Dewhurst.</p> <p>14 Q. Who is John Opperman?</p> <p>15 A. Budget and policy analyst for Lieutenant Governor</p> <p>16 Dewhurst.</p> <p>17 Q. And who is John Green?</p> <p>18 A. Budget analyst for Lieutenant Governor Dewhurst</p> <p>19 Q. Are you familiar with the roles and</p> <p>20 responsibilities of the Lieutenant Governor under the</p> <p>21 Senate rules?</p> <p>22 A. Generally familiar, yes.</p> <p>23 Q. Is it true that Mr. Dewhurst has no authority to</p> <p>24 set the legislative agenda for the Senate under the</p> <p>25 Senate rules?</p>	<p style="text-align: center;">48</p> <p>1 A. The State Affairs committee, no.</p> <p>2 Q. Can he -- when the committee is acting as a</p> <p>3 committee as a whole call a hearing for that committee?</p> <p>4 A. I'm actually forgetting now whether it was</p> <p>5 Lieutenant Governor or motion from a Senator to convene</p> <p>6 the committee.</p> <p>7 Q. Are you familiar with the American Legislative</p> <p>8 Exchange Council?</p> <p>9 A. I'm aware of them, yes.</p> <p>10 Q. What is it?</p> <p>11 A. I think it's a policy group. That's all I know.</p> <p>12 Q. Do you know where it's based?</p> <p>13 A. No.</p> <p>14 Q. Do you have any affiliation with ALEC, yourself?</p> <p>15 A. No.</p> <p>16 Q. Do you know whether Mr. Dewhurst was or is a</p> <p>17 member of ALEC?</p> <p>18 A. I don't know.</p> <p>19 Q. Have you ever received any documents from ALEC</p> <p>20 related to voter ID?</p> <p>21 A. No.</p> <p>22 Q. Are you familiar with the National Conference of</p> <p>23 State Legislatures?</p> <p>24 A. Yes.</p> <p>25 Q. What is that entity?</p>

<p style="text-align: center;">53</p> <p>1 when you left the employment of Mr. Dewhurst to your</p> <p>2 home?</p> <p>3 A. No.</p> <p>4 Q. Did you take anything from the office related to</p> <p>5 photo ID?</p> <p>6 A. No.</p> <p>7 Q. Does Mr. Dewhurst maintain more than one office?</p> <p>8 A. I think he has a business office and his capital</p> <p>9 office.</p> <p>10 Q. Is the capital office for both the roles and</p> <p>11 responsibilities that he has with the legislator and his</p> <p>12 roles and responsibilities as a member of the executive</p> <p>13 branch?</p> <p>14 A. I think, yes.</p> <p>15 Q. So one office total; is that right?</p> <p>16 A. As far as I know.</p> <p>17 Q. Does he not have separate staff for executive</p> <p>18 responsibilities versus responsibilities in the Texas</p> <p>19 State Senate?</p> <p>20 A. There's one capital staff.</p> <p>21 Q. Is there a person in Mr. Dewhurst's office who</p> <p>22 maintains records?</p> <p>23 A. Yes.</p> <p>24 Q. Who is that person?</p> <p>25 A. Well, I take that back. Well, let me clarify, I</p>	<p style="text-align: center;">55</p> <p>1 Q. (By MS. WESTFALL) Which is simply saving</p> <p>2 documents that you thought could be subject to the open</p> <p>3 records request; is that right?</p> <p>4 A. I think that's fair.</p> <p>5 Q. But you took no special precautions or retention</p> <p>6 of documents given that it was election related</p> <p>7 legislation; is that right?</p> <p>8 A. I think that's right.</p> <p>9 Q. What is the retention policy for Mr. Dewhurst's</p> <p>10 office?</p> <p>11 A. There is a schedule set in the administrative</p> <p>12 code for all legislative and executive agencies and I</p> <p>13 think for most items for Lieutenant Governor it's keep</p> <p>14 everything and send it to the State archives and for</p> <p>15 some other things it's 2 years.</p> <p>16 Q. Are you generally familiar with the Senate rules</p> <p>17 in effect in the from sessions from 2005 to 2011?</p> <p>18 A. Yes.</p> <p>19 Q. Are you generally familiar with the Texas State</p> <p>20 Constitution?</p> <p>21 A. Yes.</p> <p>22 Q. Could you describe in general terms the</p> <p>23 differences between the Lieutenant Governor's executive</p> <p>24 and legislative functions broadly?</p> <p>25 MR. SWEETEN: Objection, vague. Go ahead.</p>
<p style="text-align: center;">54</p> <p>1 should say. Each member of the staff is responsible for</p> <p>2 holding on to documents they think might be required for</p> <p>3 archival purposes or open records purposes. And then</p> <p>4 the general counsel and when I was there deputy general</p> <p>5 counsel would compile those documents as necessary to</p> <p>6 respond to the open records request.</p> <p>7 Q. I see. And with regard to the photo ID bills</p> <p>8 that you were involved in, was there anticipation of</p> <p>9 Section 5 submissions or litigation that prompted you to</p> <p>10 retain those records?</p> <p>11 MR. SWEETEN: Objection, vague. Objection,</p> <p>12 I think it calls for him to reveal mental impressions</p> <p>13 that he may have had with respect to the legislative</p> <p>14 process. To the extent you're not providing</p> <p>15 information, you can answer the question.</p> <p>16 A. Yes. We held onto records assuming people might</p> <p>17 want to see them.</p> <p>18 Q. (By MS. WESTFALL) Did you hold onto and retain</p> <p>19 records related to photo ID legislation in a broader</p> <p>20 sense than you might otherwise have done pursuant to the</p> <p>21 Texas Open Records request?</p> <p>22 MR. SWEETEN: Objection vague, objection</p> <p>23 calls for speculation. But go ahead and answer.</p> <p>24 A. No. I think I would treat it like any other</p> <p>25 bill.</p>	<p style="text-align: center;">56</p> <p>1 A. He's elected statewide which would be an</p> <p>2 executive feature. He presides over the Legislature --</p> <p>3 the Senate which would be a legislative feature. There</p> <p>4 are some things about filling his vacancy and things</p> <p>5 which would make it more executive than legislative.</p> <p>6 Q. Can you describe off the top of your head any</p> <p>7 other roles that he has in Senate besides presiding over</p> <p>8 the Senate?</p> <p>9 A. He appoints committees, he issues interim charges</p> <p>10 for study by the Senate, he participate as a voting</p> <p>11 senator would in the case of a tie or in the Committee</p> <p>12 as a whole in the Senate. That's all. That's all I can</p> <p>13 remember.</p> <p>14 Q. What are questions of order?</p> <p>15 MR. SWEETEN: As a general matter you're</p> <p>16 asking what is a question of order, you can answer.</p> <p>17 Q. (By MS. WESTFALL) Do you understand the</p> <p>18 question?</p> <p>19 A. Yes. I mean, I guess I'm not sure. I'm not</p> <p>20 familiar if it's a term of art question of order.</p> <p>21 Q. Could you mark this?</p> <p>22 (Exhibit No. 73 was marked.)</p> <p>23 Q. (By MS. WESTFALL) You've been handed what's been</p> <p>24 marked as US 73. Do you recognize this document.</p> <p>25 A. It's the rules of the Texas Senate.</p>

<p style="text-align: center;">57</p> <p>1 Q. And I will represent to you that this is an</p> <p>2 excerpt of the rules. It only contains certain rules</p> <p>3 and not all of the rules because it is otherwise a very</p> <p>4 voluminous document.</p> <p>5 A. It is.</p> <p>6 Q. Turn your attention to past the table of contents</p> <p>7 to Page 1 of the Senate rules. Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. And first of all, before we get there, could you</p> <p>10 tell me what year these rules applied to?</p> <p>11 A. First page says 2011.</p> <p>12 Q. Thank you. And turning your attention back to</p> <p>13 Page 1.</p> <p>14 A. Okay.</p> <p>15 Q. Do you see rule 1.01?</p> <p>16 A. Yes.</p> <p>17 Q. And the first sentence refers to, does it not,</p> <p>18 that the Lieutenant Governor is present in the Senate</p> <p>19 and decides all questions of order subject to appeal by</p> <p>20 another member. Do you see that sentence?</p> <p>21 A. Yes.</p> <p>22 Q. Could you tell me what that means in your words?</p> <p>23 A. I suppose my interpretation would be if a member</p> <p>24 of the Senate raises any sort of objection in the form</p> <p>25 of a point of order, that a ruling on that point of</p>	<p style="text-align: center;">59</p> <p>1 Q. And in a Committee of the whole may he vote on</p> <p>2 anything before the Committee or only certain types of</p> <p>3 bills or resolutions or?</p> <p>4 A. My understanding is the Committee of the whole is</p> <p>5 only convened to consider a particular item.</p> <p>6 Q. I see. So as a general matter under rule 6.18,</p> <p>7 it's only when there is a tie he may vote; is that</p> <p>8 right?</p> <p>9 <b>MR. SWEETEN: Objection vague. Misstates</b></p> <p>10 <b>prior testimony. Go ahead and answer it.</b></p> <p>11 A. 6.18 says he shall vote if there is a tie.</p> <p>12 Q. (By MS. WESTFALL) Do you remember in your</p> <p>13 employment with Mr. Dewhurst how many times he voted</p> <p>14 when there was a tie?</p> <p>15 A. I'm not sure I recall that ever happening.</p> <p>16 Q. Can he ever vote on final passage of a bill if</p> <p>17 there is not a tie?</p> <p>18 A. Not that I'm aware.</p> <p>19 Q. And I believe you testified earlier that he may</p> <p>20 refer assigned bills to the Committee; is that right?</p> <p>21 A. I believe technically bills are assigned to</p> <p>22 Committee through the Secretary of State -- secretary of</p> <p>23 the Senate or parliamentarians office.</p> <p>24 Q. I will refer you to page 51, rule 7.06, referral</p> <p>25 bills. Do you see that?</p>
<p style="text-align: center;">58</p> <p>1 order would be made by the Lieutenant Governor.</p> <p>2 Q. Turning your attention to page 28, rule 5.15,</p> <p>3 called ruling by president. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And could you describe for me your understanding</p> <p>6 of this rule?</p> <p>7 A. Again, if there's a point of order raised by a</p> <p>8 member of the Senate, the Lieutenant Governor would rule</p> <p>9 on that point of order. That ruling may be appealed to</p> <p>10 the entire Senate for a vote to overrule or uphold that</p> <p>11 ruling.</p> <p>12 Q. Turning your attention to page 46, at rule 6.18,</p> <p>13 Lieutenant Governor to give casting vote. Do you see</p> <p>14 that rule?</p> <p>15 A. Yes.</p> <p>16 Q. Does this rule suggest that the Lieutenant</p> <p>17 Governor may vote on anything or only when there is a</p> <p>18 tie?</p> <p>19 A. This rule says that if there is a tie Lieutenant</p> <p>20 Governor shall give the casting vote.</p> <p>21 Q. And otherwise is the Lieutenant Governor</p> <p>22 prohibited from voting?</p> <p>23 A. If there is a Committee as a whole I believe that</p> <p>24 also allows the Lieutenant Governor to participate in</p> <p>25 debate and vote.</p>	<p style="text-align: center;">60</p> <p>1 A. Yes.</p> <p>2 Q. Could you tell me what that rule means?</p> <p>3 A. That means the Lieutenant Governor shall refer</p> <p>4 each bill to the proper Committee.</p> <p>5 Q. Turning your attention to the next page, page 69,</p> <p>6 rule 7.23, do you see that rule, signing bills?</p> <p>7 A. Yes.</p> <p>8 Q. Is that -- is your understanding of this rule</p> <p>9 that it's -- it's somewhat of a ceremonial function, the</p> <p>10 signing?</p> <p>11 A. I think that's fair, yes.</p> <p>12 Q. He doesn't have any discretion whether he can or</p> <p>13 can't sign those bills or joint resolutions; isn't that</p> <p>14 right?</p> <p>15 A. I'm not aware.</p> <p>16 Q. Are you aware of any time during your employment</p> <p>17 with Mr. Dewhurst that his refused to sign</p> <p>18 legislation -- a bill or a joint resolution that had</p> <p>19 been enacted by the Legislature?</p> <p>20 A. I'm not aware.</p> <p>21 Q. Turning your attention to the next page, page 78,</p> <p>22 do you see rule 11.01?</p> <p>23 A. Yes.</p> <p>24 Q. And it indicates that the president of the Senate</p> <p>25 appoints committees and standing subcommittees; is that</p>

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1 right?

2 A. Correct.

3 Q. Turning your attention to the next page on 79,  
4 rule 11.03, do you see the president, in other words the  
5 Lieutenant Governor may appoint special committees and  
6 standing committees?

7 A. Yes.

8 Q. Including subcommittees and the Committee of the  
9 whole senate; is that right?

10 A. Yes.

11 Q. And on the next page, page 80, at rule 11.04, do  
12 you see it indicates the president shall designate the  
13 chair and vice chairs of each standing committee and  
14 subcommittee?

15 A. Yes.

16 Q. And on page 91, at rule 12.01, do you see that  
17 conference committees of the Senate are selected and  
18 appointed by the Lieutenant Governor; is that correct?

19 A. Yes.

20 Q. And then on Page 98, at rules 13.02 and 13.03, do  
21 you see that the Lieutenant Governor with regard to  
22 Committee of the whole Senate may debate and vote on  
23 questions?

24 A. Yes.

25 Q. Do you have any idea why the president is allowed

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1 to debate and vote on all questions of the Committee of  
2 the whole Senate?

3 A. I don't know.

4 Q. What's the purpose of the that rule?

5 A. I don't know.

6 Q. During your employment with the Lieutenant  
7 Governor, how many times was a Committee of the whole  
8 Senate convened.

9 A. I would say a few times.

10 Q. Can you remember the first time it happened?

11 A. I know it was done on voter ID twice and it seems  
12 like there may been another time, but I can't remember  
13 the circumstances.

14 Q. For voter ID twice, do you mean in 2011 and 2009?

15 A. That's my memory, yes.

16 Q. And sitting here today, you can't remember  
17 another time when the Committee of the whole was  
18 convened; is that correct?

19 A. I can't be certain.

20 Q. You can't be certain that you can't remember or  
21 that it didn't happen?

22 A. I'm not certain that it did not happen other  
23 times.

24 Q. Well, it certainly was unusual, was it not?

25 MR. SWEETEN: Objection, vague. You can

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1 answer.

2 A. I think the Committee of the whole is less usual  
3 than the regular meeting of the Senate for sure.

4 Q. (By MS. WESTFALL) Do you have a general  
5 understanding of why the purpose of the convening of the  
6 Committee of the whole Senate?

7 MR. SWEETEN: Objection, asked and answered.

8 A. I think generally speaking a Committee of the  
9 whole is convened to consider an issue. The  
10 circumstances probably vary.

11 Q. (By MS. WESTFALL) Well, I believe you just  
12 testified that the Committee of the whole was convened  
13 to consider two voter ID bills, correct?

14 A. I remember those two, I remember, yes.

15 Q. And did that occur in order to allow the  
16 Lieutenant Governor to have the right to debate and vote  
17 on these questions?

18 MR. SWEETEN: Don't reveal the thoughts,  
19 mental impressions, or opinions about the legislation or  
20 the furtherance of the legislation process and don't  
21 reveal any communications you had between the Lieutenant  
22 Governor, legislators, legislative staff, state agency,  
23 or Texas Council in answering this question.

24 A. I don't know why it was convened as a Committee  
25 of the whole.

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1 Q. (By MS. WESTFALL) Is your response -- are you  
2 responding based in part on asserting privilege today  
3 based on your counsel's advice?

4 A. I think the short answer is I don't know and so I  
5 don't have to get to the question of whether there's a  
6 privilege that attaches.

7 Q. Does forming a Committee of the whole Senate  
8 allow more expeditious consideration of legislation?

9 MR. SWEETEN: As a general matter,  
10 Elizabeth?

11 MS. WESTFALL: Yes.

12 MR. SWEETEN: You can answer.

13 A. Yes.

14 BY MS. WESTFALL:

15 Q. How does that work?

16 A. Typically you would have a bill that goes to a  
17 Committee and then to the full Senate for a vote. And  
18 the Committee of the whole allows all the Senators to  
19 hear testimony and vote. I believe straight to final  
20 passage from the Senate.

21 Q. Are there two votes? One in the Committee of the  
22 whole and one final passage or is it one vote to the  
23 best of your knowledge?

24 A. I cannot recall. If they're back to back  
25 votes -- I mean, if they're two votes they're probably



<p style="text-align: center;">65</p> <p>1 very close together.</p> <p>2 Q. I see. And they can just be held sequentially?</p> <p>3 A. They may require suspension of the rules to do</p> <p>4 that. I can't remember frankly. If it's one or two.</p> <p>5 MR. SWEETEN: Elizabeth, I think we've been</p> <p>6 going over an hour. Do you want to take a break pretty</p> <p>7 soon. And also is there any way we can move? It's</p> <p>8 getting warm in here.</p> <p>9 MS. WESTFALL: Yes. Mr. Sweeten, I fully</p> <p>10 agree with your assessment on the temperature in the</p> <p>11 room.</p> <p>12 MR. SWEETEN: We've agreed on something.</p> <p>13 MS. WESTFALL: And we can have that on the</p> <p>14 record even. Could I please ask two more questions and</p> <p>15 we will investigate a more comfortable room for this</p> <p>16 deposition to move to.</p> <p>17 MR. SWEETEN: Sure, absolutely.</p> <p>18 BY MS. WESTFALL:</p> <p>19 Q. Could you describe for me the differences that</p> <p>20 Mr. Dewhurst would play if a bill were considered by a</p> <p>21 State Affairs Committee as opposed to the Committee of</p> <p>22 the whole as a general matter?</p> <p>23 MR. SWEETEN: You can answer as a general</p> <p>24 matter.</p> <p>25 A. Yeah. I think a bill in the State Affairs</p>	<p style="text-align: center;">67</p> <p>1 A. Again, I think it's just based on my memory. I'm</p> <p>2 not sure how the Committee of the whole would</p> <p>3 communicate, frankly.</p> <p>4 Q. I'm just -- let me rephrase the question. Are</p> <p>5 you aware of any communications concerning having photo</p> <p>6 ID considered by the Committee of the whole?</p> <p>7 A. No.</p> <p>8 Q. As it related to Section 5 in the Voting Rights</p> <p>9 Act?</p> <p>10 A. No.</p> <p>11 MR. SWEETEN: Same objection.</p> <p>12 Q. (By MS. WESTFALL) What is the Lieutenant</p> <p>13 Governor's role when the Senate is considering a bill on</p> <p>14 the floor?</p> <p>15 A. He recognizes senator to bring up a bill, he</p> <p>16 answers questions, points of order, questions of order,</p> <p>17 and helps the bill proceed administratively through the</p> <p>18 process.</p> <p>19 Q. Does he manage the bill or is the bill sponsor</p> <p>20 the one who is managing the floor debate?</p> <p>21 A. His role is only procedural. So managing would</p> <p>22 just be recognizing senators to ask questions.</p> <p>23 Q. And turning back to Exhibit US 73, I asked you a</p> <p>24 number of questions about a number of rules and the</p> <p>25 senate rules related to the Lieutenant Governor's</p>
<p style="text-align: center;">66</p> <p>1 Committee the Lieutenant Governor would not have a</p> <p>2 direct role in the way he would in a committee of the</p> <p>3 whole where he gets to participate and vote.</p> <p>4 Q. Are there any other differences you're aware of?</p> <p>5 A. No.</p> <p>6 Q. Are you aware of any communications concerning</p> <p>7 consideration of photo ID legislation by the Committee</p> <p>8 of the whole and as it pertained to Section 5 of the</p> <p>9 Voting Rights Act?</p> <p>10 MR. SWEETEN: Objection to the question as</p> <p>11 compound. I think if you're asking him as matters of</p> <p>12 public record, he can answer that question. If you're</p> <p>13 asking him, you know, information that would reveal</p> <p>14 communications that he's had with the individuals or</p> <p>15 entities that we've enumerated then that would be</p> <p>16 legislative and privileged, but then I'll go ahead and</p> <p>17 let him answer.</p> <p>18 A. If you could repeat the question.</p> <p>19 Q. (By MS. WESTFALL) Certainly. Are you aware of</p> <p>20 any communications concerning consideration of photo ID</p> <p>21 legislation by the Committee of the whole and as it</p> <p>22 pertained to Section 5 of the Voting Rights Act?</p> <p>23 A. No.</p> <p>24 Q. And are you asserting privilege in your response</p> <p>25 or is that simply based on your memory?</p>	<p style="text-align: center;">68</p> <p>1 powers, are you aware of any other powers in the senate</p> <p>2 rules that were applicable in 2011 that we haven't</p> <p>3 already discussed and referred to and to which you</p> <p>4 answered questions?</p> <p>5 A. I'm not aware of any.</p> <p>6 Q. So in other words, what you've testified about</p> <p>7 any rules that I've identified in the senate rules are</p> <p>8 the sum total of the Lieutenant Governor's powers and</p> <p>9 responsibilities in the senate in 2011; is that your</p> <p>10 understanding?</p> <p>11 A. Yeah. I mean, generally speaking I'm looking at</p> <p>12 it now, if there's some matter that's open for</p> <p>13 interpretation or the rules are silent then other</p> <p>14 parliamentary precedent can be used. But other than</p> <p>15 that I think the senate rules are the sum of his</p> <p>16 authority.</p> <p>17 Q. And the rules to which you answer questions and</p> <p>18 which we identified in the record in your deposition</p> <p>19 today, are those the sum total of the rules that define</p> <p>20 the Lieutenant Governor's powers in the 2011 session, to</p> <p>21 if best of your knowledge sitting other day?</p> <p>22 MR. SWEETEN: Objection, asked and answered</p> <p>23 A. I would say -- I mean, the universe of his powers</p> <p>24 presiding over the senate. The Lieutenant Governor has</p> <p>25 got other constitutional powers and authority that would</p>

<p style="text-align: center;">69</p> <p>1 be outside of these senate rules.</p> <p>2 Q. Okay. But can you think of any rules that we</p> <p>3 haven't discussed today in your deposition that pertain</p> <p>4 to the Lieutenant Governor's powers?</p> <p>5 MR. SWEETEN: You're asking about --</p> <p>6 MS. WESTFALL: In the Senate rules.</p> <p>7 MR. SWEETEN: In the Senate rules.</p> <p>8 A. No.</p> <p>9 Q. (By MS. WESTFALL) Thank you. Why don't we take</p> <p>10 a break?</p> <p>11 (Brief recess.)</p> <p>12 BY MS. WESTFALL:</p> <p>13 Q. The Lieutenant Governor can't ever introduce</p> <p>14 legislation in his own name; is that right?</p> <p>15 A. That is correct.</p> <p>16 Q. Could you describe his powers concerning the</p> <p>17 development of legislation?</p> <p>18 A. I think he issues interim charges so directing</p> <p>19 committees of the senate to study certain issues.</p> <p>20 Again, he recognizes Senators on the floor so in that</p> <p>21 sense he decides the agenda for the session.</p> <p>22 Q. With regard to interim charges, is there a rule</p> <p>23 in the senate rules that authorizes him to do that and</p> <p>24 requires the senate to follow those charges?</p> <p>25 A. I'm not aware if those are constitutional rules</p>	<p style="text-align: center;">71</p> <p>1 would reveal mental impressions or opinions about</p> <p>2 legislative or in furtherance of the legislative process</p> <p>3 or any communications surrounding those. So to the</p> <p>4 extent you can answer this question without doing so,</p> <p>5 you can answer.</p> <p>6 A. I guess I can't recall examples that would not</p> <p>7 include my personal communications.</p> <p>8 Q. (By MS. WESTFALL) So you're asserting privilege</p> <p>9 with regard to that answer?</p> <p>10 A. I think, yes. Yes.</p> <p>11 Q. And Mr. Dewhurst role with regard to introduction</p> <p>12 of bills is limited to what you just testified to and</p> <p>13 advocating with legislatures to introduce his</p> <p>14 legislation; is that correct?</p> <p>15 MR. SWEETEN: Objection asked and answered.</p> <p>16 A. I think certainly, you know, he is an advocate</p> <p>17 for his own priorities.</p> <p>18 Q. In addition to the ability to introduce</p> <p>19 legislation, are there any other powers that members of</p> <p>20 the senate have that the Lieutenant Governor does not</p> <p>21 have?</p> <p>22 A. I mean a senator can introduce a bill, the</p> <p>23 Lieutenant Governor then refers it to the Committee and</p> <p>24 recognizes it on the floor if it makes it out of</p> <p>25 Committee and then recognizes them again if there's a</p>
<p style="text-align: center;">70</p> <p>1 authority.</p> <p>2 Q. Does his office develop legislation for other</p> <p>3 members to introduce?</p> <p>4 A. I think --</p> <p>5 MR. SWEETEN: Don't reveal specific thoughts</p> <p>6 or impressions about pending legislation or matters</p> <p>7 related to the legislative process in answering the</p> <p>8 question. You can answer as a general matter.</p> <p>9 A. Generally, the Lieutenant Governor like any</p> <p>10 elected official would layout their priorities before</p> <p>11 any session or during any session and to the extent</p> <p>12 those bills are picked up and sponsored by senators.</p> <p>13 There's a connection there.</p> <p>14 Q. Does he ordinarily set forth a legislative agenda</p> <p>15 in particular legislative language for bills that would</p> <p>16 go along with that agenda?</p> <p>17 A. I'm not sure --</p> <p>18 MR. SWEETEN: Don't reveal legislatively</p> <p>19 privileged information, but you can answer.</p> <p>20 A. I'm not sure if it's typical, but I think there</p> <p>21 are probably times when, you know, he suggests</p> <p>22 particular language.</p> <p>23 Q. When do you remember that having occurred?</p> <p>24 MR. SWEETEN: At this point, I don't want</p> <p>25 you to reveal any communications with respect to -- that</p>	<p style="text-align: center;">72</p> <p>1 change in the House and the conference Committee report</p> <p>2 to be considered as well as appointing conference</p> <p>3 Committee members.</p> <p>4 Q. But turning back to my question, are there other</p> <p>5 powers that members of the senate have in addition to</p> <p>6 introducing bills, that you can think of sitting here</p> <p>7 today that the Lieutenant Governor does not have?</p> <p>8 A. The voting Committee. That's probably it from a</p> <p>9 legislative procedural standpoint.</p> <p>10 Q. While you were employed with Mr. Dewhurst, did</p> <p>11 you assist in developing legislation?</p> <p>12 A. Yes.</p> <p>13 Q. Can you describe that process generally?</p> <p>14 MR. SWEETEN: In answering this question, I</p> <p>15 don't want you to reveal thoughts, mental impressions,</p> <p>16 or opinions about legislation or in furtherance of the</p> <p>17 legislation process. Just asking as a general matter to</p> <p>18 the extent you can answer that without revealing</p> <p>19 attorney/client privilege or legislative privilege or</p> <p>20 the deliberative process privilege, you can go ahead and</p> <p>21 do so.</p> <p>22 A. I think generally as a staffer, we would be made</p> <p>23 aware of an issue either because Lieutenant Governor</p> <p>24 informed us it was a priority or because the</p> <p>25 constituents were talking about it or because it was</p>

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1 raised in one of these interim Committee hearings or  
 2 otherwise just reading the newspaper what's a problem  
 3 and what's not. So from any number of sources, the  
 4 staff would decide this is something, you know, we  
 5 should support or help with and then so my role as a  
 6 staffer -- as an attorney on the staff would be to  
 7 sometimes to draft language since I had some experience  
 8 from that from a former job, to provide legal advice  
 9 about what's possible and not possible. And just  
 10 generally talk procedurally about how to make that  
 11 happen.

12 Q. Could you describe the breakdown given your  
 13 experience in the council as to when you would,  
 14 yourself, draft the bill and whether it -- when you  
 15 would refer it to the council to draft it, kind of in a  
 16 percentage way?

17 A. Most of the time I did not request legislation.  
 18 It was not my job to provide particular language  
 19 typically. So I guess the answer is, sort of,  
 20 emergency, last second, we need this language now  
 21 situations is when I was most likely to assist in  
 22 drafting.

23 Q. How often did that occur in your employment with  
 24 the Lieutenant Governor?

25 MR. SWEETEN: You can answer as a general

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1 matter. Don't reveal matters of privilege.

2 A. It would happen -- it was not unusual, but,  
 3 again, there would be lots and lots of preparation  
 4 leading up to the floor debate. I guess floor debate is  
 5 what I would typically be called upon to help with a  
 6 last minute amendment.

7 Q. (By MS. WESTFALL) But did you do primary  
 8 drafting of legislation for Mr. Dewhurst?

9 A. As a general matter, no.

10 Q. You never drafted any bills to be filed for  
 11 Mr. Dewhurst?

12 A. I didn't say that. I said as a general matter,  
 13 my role was not to draft all the bills even in my  
 14 subject area. I'm sure I drafted some drafts of  
 15 legislation.

16 Q. How many bills were you the primary drafter for  
 17 during your employment with Mr. Dewhurst?

18 A. Gosh, I don't know. Not that many.

19 Q. A handful?

20 A. A dozen or less.

21 Q. And how, as a general matter, do you interact  
 22 with the council in drafting and creating legislation?

23 MR. SWEETEN: Objection, vague.

24 A. I think the formal process is you get on the  
 25 council website, there's a form you fill out about we

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1 want this bill to do that and here's what, you know,  
 2 additional details and then they'll open up a file on  
 3 their end and then communicate as necessary to get  
 4 details.

5 Q. Did you oversee research for the legislation?

6 MR. SWEETEN: Any legislation?

7 MS. WESTFALL: Any legislation.

8 A. When you say oversee research?

9 MR. SWEETEN: Objection, vague. Go ahead.

10 BY MS. WESTFALL:

11 Q. Let me withdraw that question and ask it a  
 12 different way.

13 Were you responsible for tasking anyone or  
 14 conducting yourself, any research, to support the bill  
 15 drafting process?

16 MR. SWEETEN: Objection, vague. You can  
 17 answer it.

18 A. I can only speak for -- I did research on bills,  
 19 but I was not supervising anyone else's research.

20 Q. Did you do any research for any voter ID bill  
 21 while you were employed with the Lieutenant Governor?

22 MR. SWEETEN: You can answer as to whether  
 23 or not you did research on a bill.

24 A. Yes.

25 Q. (By MS. WESTFALL) Did you do research for voter

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1 ID in 2010?

2 A. I can not recall. I'm assuming I probably did  
 3 since the bill came up in the session before. But  
 4 depending on when in 2010, and I can't remember when the  
 5 legislation was filed or discussed.

6 Q. Did you develop or contribute to the Lieutenant  
 7 Governor's legislative agenda for any of the years for  
 8 which you were employed with the Lieutenant Governor?

9 A. Yes.

10 Q. And which years was that?

11 MR. SWEETEN: Don't reveal specifics as to  
 12 what you did. She's asking you the year. You can  
 13 answer.

14 A. Sure.

15 Q. (By MS. WESTFALL) Do you understand the  
 16 question?

17 A. Yes. And I think probably most or all staff  
 18 contributed in some way each year. So in my case  
 19 probably the whole time I was there I had some input  
 20 into that.

21 Q. How many legislative priorities would the  
 22 Lieutenant Governor typically have?

23 MR. SWEETEN: Okay. Don't reveal

24 communications that you had with the Lieutenant Governor  
 25 in answering this, members of his staff. Don't reveal

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1 matters that are legislatively privileged or matters  
2 covered by the deliberative process in answering the  
3 question.  
4 A. I can't -- I can't recall any given number or any  
5 given session or year, but my guess is tenish. I really  
6 don't know.

7 Q. (By MS. WESTFALL) Did that remain stable  
8 throughout your employment with the Lieutenant Governor  
9 or did the number change from year to year?

10 MR. SWEETEN: Same objection and  
11 instruction. Go ahead.

12 A. I don't recall. I'm guessing it changed.

13 Q. (By MS. WESTFALL) Did it get larger or smaller  
14 over time?

15 A. I don't recall.

16 Q. Besides drafting bills and trying to get  
17 legislatures to introduce them, how did you otherwise  
18 ensure that Mr. Dewhurst's agenda was carried out?

19 MR. SWEETEN: I'm going to instruct you with  
20 respect to the legislative privilege, don't reveal  
21 thoughts, mental impressions, opinions about legislation  
22 or matters in further of the legislative process. Don't  
23 reveal any communications you had with legislators,  
24 legislative staff, State agencies, Texas Legislative  
25 Council. Also don't reveal matters that are subject to

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1 Q. Did you work with legislatures and their staff in  
2 furthering the Lieutenant Governor's agenda?

3 MR. SWEETEN: Objection, vague. You can  
4 answer yes or no if you worked with -- if you worked  
5 with.

6 A. Yes.

7 Q. (By MS. WESTFALL) Which legislatures did you  
8 most often work with?

9 A. Members of the Texas Senate.

10 Q. Could you identify particular senators?

11 A. Sure.

12 MR. SWEETEN: While you're answering, you  
13 can answer, you can identify the fact that a  
14 communication occurred. Approximate date, the means  
15 but do not reveal the substance of the conversation or  
16 what it was about.

17 MS. WESTFALL: Mr. Sweeten, I would ask that  
18 you identify the legislative act over which you are  
19 asserting privilege because there is none. I'm asking  
20 hit about procedure.

21 MR. SWEETEN: Well --

22 MS. WESTFALL: And his job description and  
23 what he did generally. There is no legislation.

24 MR. SWEETEN: I've let him answer a lot  
25 about his job description so we've done that. Now, to

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1 the deliberative process or the attorney/client  
2 privilege.

3 MS. WESTFALL: Mr. Sweeten, I'm not asking  
4 about any particular legislative acts. This is wholly  
5 outside of your objections. I ask that you withdraw  
6 with this line of questions.

7 MR. SWEETEN: Why don't read the question  
8 back.

9 MS. WESTFALL: Court reporter, could you  
10 read that back?

11 (Requested question was read.)

12 MR. SWEETEN: Same objection, same  
13 instruction. You can answer to the extent you're not  
14 revealing matters of privilege drop develop.

15 A. Generally, on issues within my areas, coverage, I  
16 would, again, update our staff on procedurally where the  
17 bills were. I was available as a resource to answer  
18 questions. Usually legal questions for our staff and  
19 for the Texas Senate.

20 BY MS. WESTFALL:

21 Q. As deputy general counsel for the Lieutenant  
22 Governor, did you have staff underneath you?

23 A. No.

24 Q. Who reported to you?

25 A. No.

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1 the extent you're asking him with whom he dealt I'm  
2 saying don't reveal the substance of the conversation.

3 MS. WESTFALL: We're not discussing a bill.

4 MR. SWEETEN: Okay. Well, to the extent we  
5 are, to the extent your answer would be revealing  
6 information about a specific bill, then I think that is  
7 covered. He can provide the information you're  
8 requesting to -- as long as he's not revealing the  
9 substance of those communication.

10 MS. WESTFALL: Mr. Sweeten, if he's  
11 answering a question about a particular bill that's a  
12 different question than I have imposed.

13 MR. SWEETEN: If her question is limited,  
14 you can answer as a general matter the individuals with  
15 whom you had communication. I think that's your  
16 question. Go ahead.

17 A. So the legislators that I most often communicated  
18 with, Senator Duncan, Senator Williams, Senator Eltife,  
19 Senator Huffman, Senator Seliger, I would say that's  
20 probably who I communicated with the most.

21 BY MS. WESTFALL:

22 Q. And with regard to the Governors -- I mean  
23 Lieutenant Governor's role with regard to the State  
24 Affairs Committee, would it be the same set of senators  
25 or a different set of senators?

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1 A. I think most of those senators serve or served on  
2 State Affairs Committee.  
3 Q. Did you communicate directly with legislators or  
4 with their staff?  
5 A. Both.  
6 Q. Who more often, legislators or staff?  
7 A. Staff.  
8 Q. Did you communicate with the Governor Perry's  
9 staff about Lieutenant Governor's responsibilities on  
10 State Affairs Committee?  
11 A. I'm not sure if I communicated with Governor's  
12 staff specific to State affairs matters. I think I  
13 probably did. I think the Governor has a staff member  
14 assigned to most major committees so I'm sure there were  
15 communications about bills.  
16 Q. But sitting here today you can't recall  
17 communications between Governor Perry's staff and you  
18 regarding State Affairs matters?  
19 A. I would say, yes, there were communications.  
20 Q. Was it about photo ID?  
21 MR. SWEETEN: Don't reveal the substance of  
22 the specific communication. You can reveal the general  
23 subject matter.  
24 MS. WESTFALL: Mr. Sweeten, that is a  
25 general subject matter that you list throughout your

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1 privilege log so I would ask that you let him answer the  
2 question.  
3 MR. SWEETEN: And I'm letting him.  
4 A. There are communications about election bills  
5 including photo ID.  
6 BY MS. WESTFALL:  
7 Q. About how many did you have regarding photo ID?  
8 A. I probably didn't have many communications  
9 outside the weekly Committee hearings and even then not  
10 every week about elections and even then not every time  
11 about voter ID. So I would say no more than a handful.  
12 Q. And just to clarify your testimony, you had no  
13 more than a handful of conversations with Governor  
14 Perry's staff about photo ID; is that correct?  
15 A. I think that's correct.  
16 Q. And were those communications chiefly in the 2009  
17 through 2011 period of time?  
18 A. Yes.  
19 Q. How did you communicate with Governor Perry's  
20 staff?  
21 A. In person, at Committee hearings.  
22 Q. Did you have any written communications with  
23 Governor Perry's staff?  
24 A. Not that I recall.  
25 Q. Did you have any e-mail?

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1 A. I may have, but I don't recall any specific  
2 e-mails.  
3 Q. And who was the person in Governor Perry's office  
4 with whom you communicated?  
5 A. The elections person was Michael Scofield and it  
6 seems like there was a woman's name whom I'm forgetting  
7 when I first started in '07.  
8 Q. As part of your roles and responsibilities, did  
9 you advise Lieutenant Governor when he should exercise  
10 his discretion to cast a vote?  
11 MR. SWEETEN: You're asking about the  
12 substance of communication that he had with Lieutenant  
13 Governor Dewhurst. I think that that's clearly under  
14 the attorney/client privilege in the legislative  
15 privilege as well as the deliberative process privilege.  
16 MS. WESTFALL: I'm not asking about the  
17 substance of the communication. I'm asking about  
18 whether he advised as part of his job responsibilities.  
19 It's not a substance of a communication. It doesn't  
20 pertain to a legislative act. It's wholly outside of  
21 anything which you could reasonably assert privilege.  
22 MR. SWEETEN: I'm going to let him answer as  
23 to whether or not he advised as to who framed it. Go  
24 ahead.  
25 MS. WESTFALL: Thank you.

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1 A. As to whether he can vote?  
2 BY MS. WESTFALL:  
3 Q. Whether he should exercise his discretion to vote  
4 on anything?  
5 A. No.  
6 Q. Did you play any role in Mr. Dewhurst's committee  
7 appointments when he made committee appointments?  
8 MR. SWEETEN: Objection. Vague and don't  
9 reveal the substance of any particular communication.  
10 A. I think probably the chief of staff and policy  
11 director would ask and if the rest of the staff had  
12 recommendations about particular senators that would be  
13 a particularly good fit for committees.  
14 Q. (By MS. WESTFALL) Did you provide input as part  
15 of that process?  
16 A. Yes.  
17 Q. Did you provide input with regard to State  
18 affairs?  
19 A. No.  
20 Q. Did you provide any input with regard to  
21 Committee assignments in the House?  
22 A. No.  
23 Q. Did you advise the Lieutenant Governor on how to  
24 assign bills to committees?  
25 MR. SWEETEN: Same instructions, don't

<p style="text-align: center;">85</p> <p>1 reveal the substance of communications. Give a general 2 subject matter description. Go ahead. 3 A. Generally, I think the only time that staff would 4 be asked is if it was a close call about, you know, the 5 subject of this bill could be State affairs or finance. 6 So sort of deciding which Committee is a better fit for 7 the substance of the bill. 8 Q. (By MS. WESTFALL) Who in Mr. Dewhurst's office 9 advised him on committee assignments -- I mean, pardon 10 me, on assigning bills to committees? 11 A. I think -- 12 MR. SWEETEN: Same objection and 13 instruction. 14 A. I think Julia Rathgeber was primarily charged 15 with referring bills to committee. And then I'm sure 16 any number of senior staff would have had some input. 17 Q. (By MS. WESTFALL) Did someone advise or are you 18 aware of any communications that Mr. Dewhurst had with 19 staff person concerning assigns SB 14 to the Committee 20 of the whole? 21 MR. SWEETEN: I think she's asking you there 22 to reveal the substance of a communication. 23 MS. WESTFALL: No. I'm asking about the 24 existence of a communication. We can read question 25 back, Mr. Sweeten.</p>	<p style="text-align: center;">87</p> <p>1 A. I don't know. 2 Q. You just testified that you believe you are aware 3 of a communication concerning a referral of SB 14 to the 4 Committee of the whole, correct? 5 A. I guess what I'm saying is a bill that was -- any 6 high profile bill there would have been some discussion 7 about in this case to go to the Committee of the whole. 8 I assume there would have been a discussion. I'm not 9 aware of any particular times or dates or parties to 10 that discussion. 11 Q. And who do you think would know about the 12 existence of that communication? 13 MR. SWEETEN: Objection, calls for 14 speculation. You can answer. 15 A. I'm guessing the chief of staff and the policy 16 director. 17 Q. (By MS. WESTFALL) Ms. Rathgeber and Mr. Brunson? 18 A. Correct. 19 Q. And Mr. Dewhurst himself, correct? 20 A. Probably, yes. 21 Q. And if Ms. Rathgeber and Mr. Brunson don't recall 22 this communication or discussion Mr. Dewhurst would be 23 the one to ask about it; is that right? 24 MR. SWEETEN: Objection calls, for 25 speculation, assumes facts not in evidence. You can</p>
<p style="text-align: center;">86</p> <p>1 MR. SWEETEN: Well, you're saying to advise 2 as to Senate Bill 14. I think there was even more in 3 there about the substance of the communication. Don't 4 reveal the substance of communication that you had as 5 that matter is legislatively privileged, part of the 6 deliberative process privilege and subject to the 7 attorney/client privilege. You can answer questions 8 about if you had a communication on a given date, the 9 means of the communication, who was present. That's 10 all. 11 A. So the question is am I aware of whether or not 12 Governor Dewhurst communicated with staff prior to 13 referring the bill to the Committee of the whole. 14 Q. (By MS. WESTFALL) Correct. 15 A. I think, yes. 16 Q. And did Ms. Rathgeber have any involvement in 17 those discussions? Was she -- strike that. 18 Was she a party to the communications which you 19 just testified to? 20 A. I don't know. 21 Q. Was Mr. Brunson a party to the communication? 22 A. I don't know. 23 Q. Were you a party to the communication? 24 A. No. 25 Q. When did that communication take place?</p>	<p style="text-align: center;">88</p> <p>1 answer. 2 A. That's who I would ask. 3 Q. (By MS. WESTFALL) Do chairs of committees make 4 request to have bills sent to their committee? 5 A. Yes. 6 Q. How often does that happen? 7 A. I don't know. 8 Q. Do you know with regard to Senate Bill 14 whether 9 the chair of the State Affairs Committee ask that it be 10 referred to his committee? 11 A. I don't know. 12 Q. Do you play any role in assisting the Lieutenant 13 Governor in the appointment of conferees to conference 14 committee? 15 A. Yes. 16 Q. Did you play such as role with regard to Senate 17 Bill 14? 18 MR. SWEETEN: Objection, that calls for 19 legislatively privileged information. Would ask him to 20 reveal thoughts, mental impressions, conversations and 21 furtherance of the legislative process regarding Senate 22 Bill 14. Don't answer. 23 MS. WESTFALL: I don't think it does. I 24 want you to state on the record how this has anything to 25 do with the substance. This has to do with what role,</p>



<p style="text-align: center;">89</p> <p>1 who was playing with regard to certain legislative acts.</p> <p>2 MR. SWEETEN: You asked the specific nature</p> <p>3 -- in your question, you're asking about the subject</p> <p>4 matter of the communication and it also presupposes that</p> <p>5 that occurred. So I think you're beyond asking general</p> <p>6 information about a communication. You're asking about</p> <p>7 the specifics of the communication.</p> <p>8 MS. WESTFALL: Mr. Sweeten, it is a matter</p> <p>9 of public record that conferees were appointed to the</p> <p>10 conference committee with regard to SB 14, is it not?</p> <p>11 I'm asking whether he played any role in that. I'm not</p> <p>12 asking about any communications. I'm not asking what</p> <p>13 the role was. I'm asking was he involved in that</p> <p>14 decision. What is objectionable about those questions?</p> <p>15 MR. SWEETEN: Well, I mean, think you're</p> <p>16 starting to seek -- you're drilling down into specific</p> <p>17 mental impressions on how the bill took its course and</p> <p>18 the involvement that his office had. And I think once</p> <p>19 you're walking down that path, then you're starting to</p> <p>20 get into matters that are matters of privilege. I think</p> <p>21 the way it's phrased that it's objectionable.</p> <p>22 MS. WESTFALL: Just to be clear, you're</p> <p>23 taking the position that the identify of staff people</p> <p>24 involved in decisions, which is clearly a foundational</p> <p>25 issue and not going to the communication itself, is</p>	<p style="text-align: center;">91</p> <p>1 we're not revealing the substance of the conversation.</p> <p>2 What I think you're starting to ask him about specific</p> <p>3 conversations. That's my point. So if you want to</p> <p>4 rephrase -- if you could read the question back that</p> <p>5 she's asked, we'll look at it in that light, but I want</p> <p>6 to be clear on what I'm instructing him.</p> <p>7 BY MS. WESTFALL:</p> <p>8 Q. I'm going try it a different way.</p> <p>9 Were you a party to any communications concerning</p> <p>10 Lieutenant Governor's appointment of conferees to the</p> <p>11 conference committee to consider SB 14?</p> <p>12 MR. SWEETEN: I'm going to let you answer as</p> <p>13 to that general subject matter and description. You can</p> <p>14 answer that question.</p> <p>15 A. Yes.</p> <p>16 Q. (By MS. WESTFALL) Who else was involved in that</p> <p>17 communication?</p> <p>18 A. Julia Rathgeber.</p> <p>19 Q. Was anyone else involved in that conversation?</p> <p>20 A. Not that I recall.</p> <p>21 Q. Were any staff people for legislators involved in</p> <p>22 that conversation?</p> <p>23 A. Not that I recall.</p> <p>24 Q. Was that one conversation?</p> <p>25 A. Probably.</p>
<p style="text-align: center;">90</p> <p>1 privileged? Is that what you're asserting today?</p> <p>2 MR. SWEETEN: First of all, I'm not subject</p> <p>3 to your examination, but let me tell you what I am</p> <p>4 telling you.</p> <p>5 MS. WESTFALL: It's important to have this</p> <p>6 on the record, Mr. Sweeten.</p> <p>7 MR. SWEETEN: It's fine. Let's have a clear</p> <p>8 record. Let me say what I'm going to say. The court</p> <p>9 has very clearly said that whether or not communications</p> <p>10 occurred is a matter that you can ask him. The dates,</p> <p>11 the means of communications, the parties involved,</p> <p>12 that's all stuff that I'm going to let you ask him.</p> <p>13 When you start to get into -- and as a precursor to the</p> <p>14 question, you start talking about the substance and you</p> <p>15 presuppose what was discussed, then I think you're</p> <p>16 starting to get into matters that are legislatively</p> <p>17 privileged and are covered by that. So, I mean, I'm</p> <p>18 happy to work with you if your question is, did he have</p> <p>19 a communication? We'll let him answer that question.</p> <p>20 If you're asking about specific information that</p> <p>21 occurred in the conversation, then I think we're getting</p> <p>22 to a point where you are trying to discover his mental</p> <p>23 impressions, thoughts, or impressions about pending</p> <p>24 legislation. You even said Senate Bill 14. So I'm</p> <p>25 going to let him, you know, answer to the extent that</p>	<p style="text-align: center;">92</p> <p>1 Q. Are you aware of any conversations that the</p> <p>2 Lieutenant Governor had with anyone in the House</p> <p>3 concerning the appointment of conferees --</p> <p>4 A. No.</p> <p>5 Q. -- to that Committee?</p> <p>6 Does the Lieutenant Governor engage in public</p> <p>7 relations or media?</p> <p>8 MR. SWEETEN: Objection, vague. You can --</p> <p>9 Q. (By MS. WESTFALL) Press releases?</p> <p>10 A. Yes. He issued -- his staff issues press</p> <p>11 release.</p> <p>12 Q. And who was the person who handled that with</p> <p>13 regard to SB 14?</p> <p>14 A. I think Mike Walz.</p> <p>15 Q. Was there anyone else besides Mr. Walz?</p> <p>16 A. Not that I'm aware.</p> <p>17 Q. Does the Lieutenant Governor, as part of his</p> <p>18 responsibilities, communicate with interest group</p> <p>19 outside of the legislature?</p> <p>20 A. I think he address various groups and</p> <p>21 conventions, yes.</p> <p>22 Q. And who is the staff person who organizes those</p> <p>23 discussions?</p> <p>24 A. I don't know.</p> <p>25 Q. Are you aware of any such communications that he</p>

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1 had with interest groups regarding photo ID?  
 2 A. No.  
 3 Q. Are you familiar with Section 5 of the Voting  
 4 Rights Act?  
 5 A. Yes.  
 6 Q. What is your understanding of Section 5's  
 7 requirements?  
 8 A. Broadly that a certain class of states have to  
 9 seek preclearance from the federal government before  
 10 implementing changes to election laws.  
 11 Q. Is there anything else you can just generally  
 12 tell me about your understanding of Section 5 or is that  
 13 it in terms -- from your legal perspective?  
 14 A. More general than that?  
 15 Q. Well, I mean --  
 16 A. It largely applies to -- I mean, the most common  
 17 examples would be redistricting and matters relating to  
 18 eligibility for voting.  
 19 Q. And Section 5, regardless of anyone's personal  
 20 views of Section 5, it remains the law of the land,  
 21 right?  
 22 A. Yes.  
 23 Q. And the Legislature must comply with all federal  
 24 laws including Section 5, correct?  
 25 MR. SWEETEN: Objection, you're asking for a

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1 legal opinion, legal inference. You can answer.  
 2 MS. WESTFALL: He testified he has a law  
 3 degree.  
 4 A. I think, yes, is the answer.  
 5 BY MS. WESTFALL:  
 6 Q. And you drafted a lot of election laws while  
 7 employed with the council and the Lieutenant Governor;  
 8 is that right?  
 9 A. I would not say I drafted a lot. I drafted some.  
 10 Q. Were you only involved in the drafting of photo  
 11 ID, in terms of election laws or others?  
 12 A. Others.  
 13 Q. Could you --  
 14 A. Election laws bills went through the State  
 15 Affairs Committee generally. And so I read and reviewed  
 16 and waited on a dozen at least over the 5 years.  
 17 Q. Could you generally provide me a sense of the  
 18 categories of bills that you were involved in the  
 19 drafting or consideration of that went through State  
 20 affairs?  
 21 MR. SWEETEN: While at Leg. Council or while  
 22 at the Governor's office.  
 23 MS. WESTFALL: While at the Governor's  
 24 office.  
 25 MR. SWEETEN: Lieutenant Governor's office.

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1 A. The ones which I provided drafting assistance?  
 2  
 3 BY MS. WESTFALL:  
 4 Q. Or had any general advisory assistance or bills  
 5 that went through State affairs while you were employed  
 6 with the Lieutenant Governor?  
 7 A. There's just a very broad range. Everything in  
 8 the election code so from polling place locations to  
 9 cleanup and technical changes, to the code to make it  
 10 easier to understand, voter ID obviously. Election  
 11 dates, most recent -- I just passed a bill last session  
 12 changing primary dates to comply with federal law. I  
 13 think it was just a very broad spectrum.  
 14 Q. What is your understanding of the scope of the  
 15 applicability of Section 5 to the laws that you just  
 16 described and listed? Does it cover some of those laws?  
 17 All of those laws?  
 18 MR. SWEETEN: Objection, compound.  
 19 Objection vague. Objection calls for speculation.  
 20 Objection asked for a legal opinion. You can answer to  
 21 the extent you have and answer to that question.  
 22 A. I think without having the election code in front  
 23 of me, I would just say that some of the laws that went  
 24 through State affairs were probably subject, if they  
 25 passed, to Section 5 voting rights.

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1 Q. (By MS. WESTFALL) Is it your understanding that  
 2 Section 5 applies to a broader range of bills than  
 3 redistricting?  
 4 A. Yes.  
 5 MR. SWEETEN: Same objection. Go ahead.  
 6 A. Yes.  
 7 Q. (By MS. WESTFALL) And with regard to the  
 8 billings that are subject to Section 5, could you  
 9 describe as a general matter steps that the Legislature  
 10 takes during development, introduction or passage to  
 11 increase the likelihood that the bill will be pre  
 12 cleared under Section 5?  
 13 MR. SWEETEN: I'm going to object based upon  
 14 the legislative privilege. You're asking for specific  
 15 thoughts, mental impressions, about pending legislation.  
 16 And I think that those matters are potentially  
 17 legislatively privileged because you're asking what they  
 18 generally do.  
 19 MS. WESTFALL: Are you instructing him not  
 20 to answer, period.  
 21 MR. SWEETEN: Well, I mean -- your  
 22 question -- if you're asking what the legislator has  
 23 done with respect to bills that impact the election  
 24 code, then I think you're asking about specific bills  
 25 that have been before the legislator -- legislature, so

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1 therefore I think those would be -- you're asking for  
2 his thoughts and mental impressions about pending  
3 legislation. Also the question is compound. So those  
4 are my objections.  
5 BY MS. WESTFALL:

6 Q. Can you answer my question, Mr. Hebert?

7 A. So does the legislature take special steps in  
8 bills that might be subject to Voting Rights Act.

9 Q. As a general matter, not with regard to any  
10 particular legislative act or bill?

11 A. I guess, I would say any legislator who's  
12 concerned about passage of their bill would take steps  
13 that they and their staff thought necessary. And then  
14 during the open testimony in any given committee you  
15 would probably hear a lot of testimony about sides about  
16 the relevance and applicability of the Voting Rights  
17 Act.

18 Q. And can you point to any particular steps that  
19 might be taken to ensure that it would be pre cleared?

20 A. They would probably consult council. They would  
21 probably listen to public testimony. They would  
22 probably confer with the Secretary of State's office.

23 Q. And is --

24 A. And the Attorney General's office.

25 Q. And is it your experience that in order to ensure

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1 that there would be no retrogressive adverse effect on  
2 minority voters, that there would be any factual  
3 analysis conducted of such a bill?

4 MR. SWEETEN: Okay. My instruction to you  
5 is don't reveal any matters related to a specific bill  
6 including thoughts, mental impressions, or the process.  
7 You can answer as a general matter her question  
8 without -- but not as to a specific piece of  
9 legislation.

10 A. Yes. I think the legislature considers  
11 surrounding facts when passes legislation.

12 Q. (By MS. WESTFALL) And do they look into whether  
13 an election law might have a retrogressive or adverse  
14 impact on the minority voters?

15 MR. SWEETEN: Objection to the form.  
16 Objection compound. Objection calls for speculation.  
17 You can answer as a general matter, but not as a  
18 specific legislation.

19 A. As a general matter they would consider all  
20 surrounding facts when given specific legislation.

21 Q. (By MS. WESTFALL) But listen carefully to my  
22 question. My question is, whether they would analyze  
23 the impact on minority voters. Can you answer that  
24 question?

25 MR. SWEETEN: Don't answer as to a specific

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1 bill. Do not reveal mental impressions, thoughts, or  
2 opinions as to specific legislation. Also, I'm going to  
3 object compound, calls for speculation and vague.

4 A. So the question is, does the legislature consider  
5 impact on minority voters during the past election laws?

6 Q. (By MS. WESTFALL) In order to ensure that it  
7 would be pre cleared through Section 5?

8 A. I think the answer is probably, yes.

9 Q. Can you think of any particular instances where  
10 that was done?

11 MR. SWEETEN: Don't reveal matters related  
12 to specific legislation. Those are legislatively  
13 privileged. To the extent you can answer, generally,  
14 the question without revealing matters of legislative  
15 privilege or deliberative process privilege or  
16 communications impacting those, then you can do so.

17 A. Any bills that affecting polling locations,  
18 eligibility to vote would have undergone some of that  
19 analysis.

20 Q. (By MS. WESTFALL) Was such analysis, you know,  
21 in your experience shepherding through, analyzing  
22 reviewing, monitoring, election laws, was that type of  
23 analysis usually done as a matter of course to ensure  
24 preclearance for Section 5?

25 MR. SWEETEN: Objection, multiple.

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1 Objection, calls for speculation. Objection, vague, and  
2 objection to the extent you're seeking to find out  
3 information about a specific piece of legislation. To  
4 the extent that it does not do so or invade the  
5 deliberative process or legislative process you can  
6 answer the question.

7 A. Could you repeat the question?

8 Q. (By MS. WESTFALL) Certainly. As a matter of  
9 course when election laws were considered being  
10 developed, et cetera, would you -- actually strike that.

11 Why don't you read back the question because now  
12 I forget my question.

13 (Requested question was read.)

14 MR. SWEETEN: Same objection and  
15 instruction.

16 A. I think yes.

17 Q. (By MS. WESTFALL) And with regard -- with regard  
18 to election bills, did you -- did the legislature  
19 typically take steps to ensure that the law would not be  
20 seen as having a discriminatory purpose, for the  
21 purposes of ensuring preclearance under Section 5, of  
22 the Voting Rights Act?

23 MR. SWEETEN: Same objection and  
24 instructions.

25 A. I don't think any legislator -- I think every

<p style="text-align: center;">101</p> <p>1 legislator would be concerned about clarifying that</p> <p>2 there is no discriminatory purpose in the legislation.</p> <p>3 Q. (By MS. WESTFALL) And would steps be taken to</p> <p>4 ensure on the public record and otherwise there would be</p> <p>5 a legitimate bona fide nondiscriminatory reason for</p> <p>6 election bills?</p> <p>7 MR. SWEETEN: Same objection, same</p> <p>8 instruction.</p> <p>9 A. I guess, I don't know. I mean, I assume every</p> <p>10 piece of legislation has a purpose and that legislators</p> <p>11 are not choosing a discriminatory purpose?</p> <p>12 Q. (By MS. WESTFALL) And is it your testimony that</p> <p>13 they bear Section 5 in mind when they are enacting</p> <p>14 election bills to ensure that there's no discriminatory</p> <p>15 purpose?</p> <p>16 MR. SWEETEN: That calls for speculation.</p> <p>17 And I'm also going to object to the extent she's asking</p> <p>18 about any specific piece of legislation that you've had</p> <p>19 experience with. You don't answer the question with</p> <p>20 respect to specific legislation. To the extent you can</p> <p>21 answer the question as a general matter without</p> <p>22 discussing mental impressions or reveal any thought</p> <p>23 processes regarding legislation, you can do that.</p> <p>24 A. I don't think I know the intent of legislators on</p> <p>25 that.</p>	<p style="text-align: center;">103</p> <p>1 legislation.</p> <p>2 Q. So is it your testimony that they're basically no</p> <p>3 steps taken to ensure that election bills will be pre</p> <p>4 cleared pursuant to Section 5?</p> <p>5 MR. SWEETEN: Objection compound. Objection</p> <p>6 misstates facts and also I'm going to instruct don't</p> <p>7 reveal specific matters related to specific legislation</p> <p>8 in answering the question.</p> <p>9 A. That's not my testimony. My testimony is that a</p> <p>10 legislator has their purpose for filing legislation.</p> <p>11 They have a staff and the resources at the capital to</p> <p>12 perfect that legislation. One of those resources is the</p> <p>13 staff of the Lieutenant Governor.</p> <p>14 Q. Okay. Turning back to my question, I just want</p> <p>15 to make sure that I clearly understand your testimony.</p> <p>16 I'm asking about election bills which are subject to</p> <p>17 Section 5 and then there's a universe of other bills</p> <p>18 that are not subject to Section 5. Does the Lieutenant</p> <p>19 Governor take any steps to ensure that election bills</p> <p>20 that are subject to Section 5 will be pre cleared?</p> <p>21 MR. SWEETEN: Same objection, asked and</p> <p>22 answered also.</p> <p>23 Q. (By MS. WESTFALL) Or no?</p> <p>24 A. I think the answer is, election bills that go</p> <p>25 through State Affairs Committee or any other committee</p>
<p style="text-align: center;">102</p> <p>1 Q. (By MS. WESTFALL) Is there any particular role</p> <p>2 that the Lieutenant Governor plays in ensuring the</p> <p>3 likelihood that an election bill will be pre cleared</p> <p>4 under Section 5?</p> <p>5 MR. SWEETEN: Same objection, same</p> <p>6 instruction.</p> <p>7 A. I mean, on all legislation that passed through</p> <p>8 the Senate, I think the Lieutenant Governor's staff was</p> <p>9 available as a resource to any senator who wanted it.</p> <p>10 Q. (By MS. WESTFALL) I guess, my question is</p> <p>11 whether the Lieutenant Governor plays any role in</p> <p>12 ensuring that as election bills pass through the</p> <p>13 legislator that they will be pre cleared under Section</p> <p>14 5?</p> <p>15 MR. SWEETEN: Same objection, same</p> <p>16 instruction.</p> <p>17 A. I don't think there's a formal role.</p> <p>18 Q. (By MS. WESTFALL) Is there an informal role?</p> <p>19 A. Again, his staff was available on this or any</p> <p>20 other legislation to senators and staff who wanted</p> <p>21 opinions.</p> <p>22 Q. Is that different from any other types of</p> <p>23 legislation that is not election related? That is not</p> <p>24 subject to Section 5?</p> <p>25 A. It's the same, I think, for all types of</p>	<p style="text-align: center;">104</p> <p>1 that might be subject to the Voting Rights Act. The</p> <p>2 staff on those committees and the staff of the</p> <p>3 Lieutenant Governor to the extent we recognize issues or</p> <p>4 problems would raise those issues or problems.</p> <p>5 Q. What do you mean by issues and problems?</p> <p>6 A. If we fear that a bill might not pass</p> <p>7 preclearance.</p> <p>8 Q. Then the staff would raise that with the members?</p> <p>9 I'm not sure I understand your testimony?</p> <p>10 MR. SWEETEN: Objection. I'm going to</p> <p>11 object to the question. You're asking compound</p> <p>12 questions about a review of the entire election code and</p> <p>13 his experience with the election code. I think the way</p> <p>14 the question is phrased is confusing. I also am</p> <p>15 instructing him with respect to the legislative</p> <p>16 privilege, don't reveal matters that relate to specific</p> <p>17 pieces of legislation. With that instruction, you can</p> <p>18 answer.</p> <p>19 A. I guess the way it would typically work. Let's</p> <p>20 say, it's a bill changing up polling location. If I or</p> <p>21 any other staffer recognize that that bill needed</p> <p>22 amendments or changes or improvements to ensure its</p> <p>23 compliance with federal law, the staff would probably</p> <p>24 suggest that to the senator or their staff.</p> <p>25 Q. (By MS. WESTFALL) And are you aware of any</p>

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1 communications between staff and a member or the  
2 Lieutenant Governor or the Governor's office or the  
3 Secretary of State, in which any staff person raised  
4 concerns about SB 14 and it's ability to be pre cleared  
5 under Section 5 of the Voting Right Act?

6 MR. SWEETEN: Objection. Don't answer the  
7 question. It asks you to repeat communications that are  
8 legislatively privileged. Also privileged by the  
9 deliberative process privilege and potential  
10 attorney/client privilege.

11 Q. (By MS. WESTFALL) I'm asking you about the  
12 existence of communications.

13 MR. SWEETEN: You've asked more than that.  
14 If you want to ask him about a specific communication  
15 that's fine, but you've laced this question with  
16 specific subject matter and that's why it's  
17 objectionable. I'll work with you to try to, you know,  
18 figure out how he can answer your question about the  
19 general substance, but you've gone beyond that in your  
20 question.

21 Q. (By MS. WESTFALL) Can you answer my question?

22 A. The question is were there communications that  
23 I'm aware of related to --

24 Q. Any concerns about SB 14 not being able to be pre  
25 cleared under Section 5 of the Voting Rights Act?

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1 MR. SWEETEN: Same objection, same  
2 instruction.

3 A. I guess I'm not -- I'm comfortable saying I'm  
4 aware of communications regarding the ability of the  
5 bill to be pre cleared or not. I'm not sure concerned  
6 is the right word.

7 Q. (By MS. WESTFALL) How many such conversations  
8 are you aware of?

9 A. I think the passage of any piece of legislation  
10 is an ongoing deal from four session through three  
11 session. So I can't give you a number of conversations  
12 about the Voting Rights Act during the last session. It  
13 would be lots probably.

14 Q. Were you a party to such conversations?

15 A. Yes.

16 Q. Were these conversations that occurred before the  
17 signing of the bill in May 2011?

18 A. Yes.

19 Q. Were any steps taken subsequent to those  
20 conversations in the substance of the bill?

21 MR. SWEETEN: Don't answer that question.  
22 You don't have to answer that. That's legislatively  
23 privileged. You're asking about mental impressions,  
24 thoughts about pending legislation. Don't answer it.

25 Q. (By MS. WESTFALL) Could you tell me Texas's

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1 current system for determining how to verify the  
2 identity of a voter at the polls on election day?

3 A. I believe a voter can show up with a voter  
4 registration card or some alternate forms of ID with  
5 government issued paperwork with their name on it. So  
6 an electric bill or something like that.

7 Q. Turning back to the conversations you just  
8 testified about, who was involved in these conversations  
9 about -- not concerns, but it's not fears. You used  
10 another word that SB 14?

11 MR. ROSENBERG: Ability was the word.

12 BY MS. WESTFALL:

13 Q. Ability was the word. About the ability of SB 14  
14 to be pre cleared under Section 5? It's a foundational  
15 question.

16 MR. SWEETEN: You can answer as to who was  
17 involved in the conversation.

18 MR. ROSENBERG: Conversations, I think was  
19 his testimony.

20 A. I would say probably staff from almost every  
21 single office in the Senate.

22 BY MS. WESTFALL:

23 Q. Outside of?

24 A. And then maybe even a couple House offices.

25 Q. Outside of opponents of the bill, persons who

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1 voted against the bill, could you identify particular?

2 A. So who -- in those who supported the legislation,  
3 who in that group did I talk to about Voting Rights Act?

4 Q. Correct. As it pertained to SB 14?

5 A. I would probably need to see a list of senators,  
6 but probably every single one. Them or their staff. I  
7 mean, it could have ranged from, you know, indefinite  
8 analysis to nothing.

9 Q. Did you speak with anyone outside the Legislature  
10 about similar concerns?

11 A. Yes.

12 Q. Could you tell me who those people were?

13 A. It wasn't concerns. It was discussion of the  
14 Voting Rights Act and it's applicability to election  
15 laws. I think, probably the people over the course of  
16 the sessions that were involved in the public testimony.

17 Q. Only the public testimony?

18 A. I mean, aside from just -- yeah. Public  
19 testimony. I mean.

20 Q. Did you talk to anyone from the Governor's office  
21 on this topic?

22 A. As I mentioned earlier, I think I probably talked  
23 with their staffer who was in charge of the State  
24 Affairs Committee.

25 Q. Mr. Scofield?



<p style="text-align: center;">109</p> <p>1 A. I think that's probably right.</p> <p>2 Q. And you talked to him about the applicability or</p> <p>3 how it would all play out? SB 14 in the Section 5 of</p> <p>4 the Voting Rights Act?</p> <p>5 MR. SWEETEN: Objection. You're asking for</p> <p>6 more information about the thoughts, mental impressions</p> <p>7 about legislation Senate Bill 14 and I think you're</p> <p>8 moving into matters that are legislatively privileged.</p> <p>9 You can identify whether he had a conversation with</p> <p>10 whom, when, who was there, but we're not going to get</p> <p>11 into the specifics of the conversation.</p> <p>12 Q. (By MS. WESTFALL) Can you answer the question?</p> <p>13 A. I had limited interaction with the Governor's</p> <p>14 office.</p> <p>15 Q. Was there anyone in your office, in the</p> <p>16 Lieutenant Governor's office who had more extensive</p> <p>17 communications with the Governor's office about voter</p> <p>18 ID?</p> <p>19 A. I'm not aware.</p> <p>20 Q. Would it have been Mr. Brunson?</p> <p>21 MR. SWEETEN: Objection. You're --</p> <p>22 objection, vague. Objection assumes facts not in</p> <p>23 evidence. Objection calls for speculation. Go ahead</p> <p>24 and answer if you can.</p> <p>25 A. I don't know. I mean, I'm guessing the policy</p>	<p style="text-align: center;">111</p> <p>1 of your head?</p> <p>2 A. Again, I think it's government issued paperwork.</p> <p>3 So your electric bill, you're -- some other</p> <p>4 communications with the government.</p> <p>5 Q. And is it your impression that it's a number of</p> <p>6 forms of ID that would suffice; is that correct?</p> <p>7 A. Correct.</p> <p>8 Q. And if you don't have any of those IDs from that</p> <p>9 large range or a voter registration card, then what</p> <p>10 happens to a voter?</p> <p>11 A. Then you cast a provisional ballot.</p> <p>12 Q. And is that -- how is it determined whether that</p> <p>13 provisional ballot will be counted?</p> <p>14 A. I believe that the person has a certain period of</p> <p>15 time to return with sufficient ID to prove that they're</p> <p>16 an eligible voter.</p> <p>17 Q. Are you certain that's current law or is it</p> <p>18 simply that the county election official compares or</p> <p>19 verifies from the registration records that the voter is</p> <p>20 eligible and then counts the ballot. Do you believe</p> <p>21 it's that system?</p> <p>22 A. That might be correct.</p> <p>23 Q. Is the current system for identifying voters of</p> <p>24 the polls inadequate in any way?</p> <p>25 MR. SWEETEN: Objection. In answering this</p>
<p style="text-align: center;">110</p> <p>1 director and the chief of the staff are most likely.</p> <p>2 Q. (By MS. WESTFALL) Getting back to Texas's</p> <p>3 current system for determining how to verify the</p> <p>4 identify of voter, when someone registers to vote, the</p> <p>5 county election official mails the person a voter</p> <p>6 registration card; is that the current procedure?</p> <p>7 A. I believe yes.</p> <p>8 Q. Therefore, if you have that card in your</p> <p>9 possession and go to the polls on election day you get</p> <p>10 to vote a regular ballot?</p> <p>11 A. I believe that's right.</p> <p>12 Q. Do you know what happens if a voter lost her</p> <p>13 voter registration card or forgets to bring it to the</p> <p>14 polls on election day?</p> <p>15 A. I believe they can cast a provisional ballot.</p> <p>16 Q. Is it possible that if the voter has some sort of</p> <p>17 other form of ID that that would be a sufficient</p> <p>18 substitute under current?</p> <p>19 A. Yes. I'm sorry. Yes. Sorry. If they don't</p> <p>20 have their registration card. I thought you were asking</p> <p>21 if they didn't have any.</p> <p>22 Q. And are you aware of whether the other forms of</p> <p>23 currently supplemental ID include non photo ID?</p> <p>24 A. I believe they do.</p> <p>25 Q. Do you know what the forms of ID are off the top</p>	<p style="text-align: center;">112</p> <p>1 question, you're not -- under legislative privilege, you</p> <p>2 are not to reveal your thoughts, mental impressions,</p> <p>3 opinions about legislation or in furtherance of the</p> <p>4 legislation process including as to Senate Bill 14.</p> <p>5 Also, don't reveal communications you've had with any</p> <p>6 members of the staff, with any legislators in the</p> <p>7 furtherance of this specific bill.</p> <p>8 MS. WESTFALL: Mr. Sweeten, I'm asking his</p> <p>9 view as he sits here today. I'm not asking about any</p> <p>10 legislative act. I would ask that you withdraw that</p> <p>11 objection.</p> <p>12 MR. SWEETEN: To the extent that you can</p> <p>13 answer the question without revealing that information,</p> <p>14 I'm going to the let you do so.</p> <p>15 A. So my question is, is the current system of</p> <p>16 identification sufficient?</p> <p>17 BY MS. WESTFALL:</p> <p>18 Q. Inadequate in any way?</p> <p>19 A. Is it inadequate in any way? I think given the</p> <p>20 amount of attention being paid to this, there's</p> <p>21 certainly people concerned about its efficiency.</p> <p>22 Q. I'm asking about your view as someone who's</p> <p>23 drafted a lot of elections bills, who's served for Leg.</p> <p>24 Council, who's served for the Lieutenant Governor, in</p> <p>25 your view is the current system inadequate?</p>



<p style="text-align: center;">113</p> <p>1 MR. SWEETEN: In answering this question,</p> <p>2 don't reveal your thoughts, mental impressions, or</p> <p>3 analysis regarding specifically Senate Bill 14. You can</p> <p>4 answer as you're sitting here today as long as your</p> <p>5 answer does not reveal those communications.</p> <p>6 A. I think it's inadequate to the extent it's</p> <p>7 subject to fraud.</p> <p>8 Q. (By MS. WESTFALL) What is your basis for that</p> <p>9 opinion?</p> <p>10 MR. SWEETEN: Do not reveal matters that you</p> <p>11 learned with respect to -- that are covered by the</p> <p>12 legislative privilege, the deliberative process</p> <p>13 privilege or attorney/client privilege in answering that</p> <p>14 question.</p> <p>15 A. I think like any system, any system is</p> <p>16 susceptible to fraud. So why do I think the election</p> <p>17 system is potentially susceptible, because it's a system</p> <p>18 made up of human beings.</p> <p>19 Q. (By MS. WESTFALL) So is it your testimony that</p> <p>20 it is the potential for fraud that makes it inadequate?</p> <p>21 MR. SWEETEN: Same objection and</p> <p>22 instruction. Don't reveal your past mental impressions</p> <p>23 or considerations regarding the bill. To the extent you</p> <p>24 can answer without do so, you can.</p> <p>25 A. I think that's -- the potential is certainly part</p>	<p style="text-align: center;">115</p> <p>1 MR. SWEETEN: Objection. Voter ID laws, you</p> <p>2 haven't defined what that is.</p> <p>3 MS. WESTFALL: Actually I have.</p> <p>4 MR. SWEETEN: Tell me what it is.</p> <p>5 MS. WESTFALL: I had an instruction in the</p> <p>6 beginning.</p> <p>7 MR. SWEETEN: Well, let's talk about what</p> <p>8 that is then because I'm not sure if you're talking</p> <p>9 about a specific Senate Bill, another iterations of</p> <p>10 legislation. He's not going discuss his thoughts,</p> <p>11 mental impressions about a specific bill. You're asking</p> <p>12 him as he sits here and these are matters that don't</p> <p>13 invade his thought process or that are matters of the</p> <p>14 deliberative process or attorney/client communications</p> <p>15 that I'm going to let him answer as he's sitting here.</p> <p>16 But also objection, vague as to the question.</p> <p>17 A. So what was the question?</p> <p>18 Q. (By MS. WESTFALL) When did you first hear any</p> <p>19 support for enacting photo ID requirement in Texas?</p> <p>20 MR. SWEETEN: Don't reveal matters of</p> <p>21 legislative privilege. You can answer.</p> <p>22 A. I don't recall.</p> <p>23 Q. (By MS. WESTFALL) Was it 2005?</p> <p>24 A. It's possible. It may have been before that.</p> <p>25 Q. Was it prompted by Indiana's enactment of photo</p>
<p style="text-align: center;">114</p> <p>1 of it. And then there are cases of election fraud in</p> <p>2 Texas in the past.</p> <p>3 Q. (By MS. WESTFALL) And to be clear, the current</p> <p>4 system for voting -- for identifying voters at the</p> <p>5 polls, we're only talking about fraud as it pertains to</p> <p>6 in voter impersonation; is that correct?</p> <p>7 A. Repeat the question.</p> <p>8 Q. I'm sorry. Let me withdraw that question and ask</p> <p>9 another one.</p> <p>10 The only voter fraud that is potentially at issue</p> <p>11 when we're talking about voters appearing at the polls</p> <p>12 on election days, in person voter impersonation; is that</p> <p>13 correct?</p> <p>14 MR. SWEETEN: Objection, vague. Also</p> <p>15 objection, don't reveal any matters that were subject to</p> <p>16 the legislative privilege that I've outlined before or</p> <p>17 the deliberative process privilege or the</p> <p>18 attorney/client communication.</p> <p>19 A. I suppose there are other types of fraud you</p> <p>20 could commit regarding the electronic storage of the</p> <p>21 votes or on election day I would say the in-person fraud</p> <p>22 is probably the biggest threat.</p> <p>23 Q. (By MS. WESTFALL) And certainly photo ID laws</p> <p>24 would address only in-person voter impersonation,</p> <p>25 correct?</p>	<p style="text-align: center;">116</p> <p>1 ID law in that State?</p> <p>2 MR. SWEETEN: Objection. You're asking for</p> <p>3 him to reveal his thoughts and mental impressions,</p> <p>4 opinions about specific legislation. If you are asking</p> <p>5 him about that, then don't do that.</p> <p>6 MS. WESTFALL: I'm asking him about Indiana</p> <p>7 photo ID. That's not anything that could be covered by</p> <p>8 legislative privilege in this case, Mr. Sweeten.</p> <p>9 MR. SWEETEN: I'm not even clear on what</p> <p>10 your question is. Did he first hear of the Indiana</p> <p>11 bill, is that the same time that he heard something --</p> <p>12 he's already testified that he didn't know about when he</p> <p>13 heard it. It doesn't make sense. So objection, vague.</p> <p>14 Objection, calls for speculation. Go ahead and ask your</p> <p>15 question again.</p> <p>16 BY MS. WESTFALL:</p> <p>17 Q. Do you know why there was support for photo ID in</p> <p>18 Texas?</p> <p>19 MR. SWEETEN: Objection, calls for</p> <p>20 speculation. Do not reveal your thoughts, mental</p> <p>21 impressions or opinions about legislation in furtherance</p> <p>22 of the legislative process including any specific bill</p> <p>23 in answering this question. Do not reveal</p> <p>24 attorney/client communications that you've had with</p> <p>25 anybody at the Lieutenant Governor's office and do not</p>

<p style="text-align: center;">117</p> <p>1 reveal matters that are subject to the deliberative</p> <p>2 process privilege. If you can answer that question</p> <p>3 without doing so, you can do so.</p> <p>4 A. I imagine different people have different</p> <p>5 motivations for supporting that law.</p> <p>6 Q. (By MS. WESTFALL) Okay. Well that doesn't</p> <p>7 really answer my question, but we'll move on.</p> <p>8 MR. SWEETEN: Objection to the side bar.</p> <p>9 Argumentative.</p> <p>10 Q. (By MS. WESTFALL) Could you mark this as US 44?</p> <p>11 You've been handed what's been -- oh. You know my</p> <p>12 apologies. We need to remark this exhibit. Could you</p> <p>13 give that back to the court reporter. We previously</p> <p>14 used this exhibit. Could you mark it as US 44?</p> <p>15 (Exhibit No. 44 was marked.)</p> <p>16 Q. (By MS. WESTFALL) My apologies. You've been</p> <p>17 handed what's been previously marked as US 44. Do you</p> <p>18 recognize this?</p> <p>19 A. I don't think so. It's a voter ID bill. I don't</p> <p>20 know what session it's from.</p> <p>21 Q. Have you seen this before?</p> <p>22 A. I may have. I don't know what session it's from.</p> <p>23 Q. Okay. Turning your attention to the last page,</p> <p>24 Page 10 of Exhibit 44. It list the proposed effective</p> <p>25 date, do you see that?</p>	<p style="text-align: center;">119</p> <p>1 allowable ID under SB 14?</p> <p>2 A. Yes.</p> <p>3 Q. Do you know them off the top of your head?</p> <p>4 A. It is several forms of government issued ID:</p> <p>5 Driver's license, military ID, concealed handgun</p> <p>6 license, immigration status papers that include photo</p> <p>7 ID. I think there was one or two more.</p> <p>8 Q. And you've had a chance to review the forms of</p> <p>9 allowable ID under House Bill 1706?</p> <p>10 A. Yes.</p> <p>11 Q. Could you compare those list and tell me what's</p> <p>12 included in HB 1706 that was not included in Senate Bill</p> <p>13 14?</p> <p>14 MR. SWEETEN: You can answer as to a factual</p> <p>15 matter. I don't want you to give the basis for or I</p> <p>16 don't want you to provide mental impressions regarding</p> <p>17 the differences between these other than what's revealed</p> <p>18 on the bill itself.</p> <p>19 A. All right. Looks like HB 1706 includes employee</p> <p>20 ID cards, student ID cards, and county issued ID cards</p> <p>21 in addition to the ones I stated earlier.</p> <p>22 Q. (By MS. WESTFALL) And also does it not include</p> <p>23 non photo ID?</p> <p>24 A. Yes. Section B. Yes.</p> <p>25 Q. I'm sure you're better at reading these bills</p>
<p style="text-align: center;">118</p> <p>1 A. Uh-huh.</p> <p>2 Q. Does that refresh your recollection as to what</p> <p>3 session this was introduced in?</p> <p>4 A. Yes.</p> <p>5 Q. And what session was that?</p> <p>6 A. That would have been the 2005 session probably.</p> <p>7 Q. Okay. And do you see who was sponsoring this</p> <p>8 bill? Or authoring this bill, pardon me?</p> <p>9 A. Yes.</p> <p>10 Q. Who was that?</p> <p>11 A. Representatives Denny, Pitts, Bohac and probably</p> <p>12 a lot more.</p> <p>13 Q. Have you read this bill before sitting here</p> <p>14 today?</p> <p>15 A. I probably reviewed it. I'm not sure when or how</p> <p>16 many times.</p> <p>17 Q. Could you just take a look at US 44 and let me</p> <p>18 know when you've had a chance to review it? In</p> <p>19 particular, I would direct you to Page 4, at section</p> <p>20 63.0101.</p> <p>21 A. Okay.</p> <p>22 Q. Just let me know when you've had chance to look</p> <p>23 at those pages in that section.</p> <p>24 A. Okay.</p> <p>25 Q. Okay. So are you familiar with the forms of</p>	<p style="text-align: center;">120</p> <p>1 than I am.</p> <p>2 A. I used to write a lot of them. Yes. One off the</p> <p>3 first list or two off of the second, I think.</p> <p>4 Q. Turning your attention back to the photo ID's, do</p> <p>5 you see that the driver's license allowable in the HB</p> <p>6 1706 allowed for driver's license that had expired no</p> <p>7 earlier than 2 years before the date of presentation?</p> <p>8 A. Yes.</p> <p>9 Q. Do you know why that time period was selected for</p> <p>10 HB 1706?</p> <p>11 MR. SWEETEN: Don't answer the question.</p> <p>12 Legislative privilege. Objection.</p> <p>13 Q. (By MS. WESTFALL) Are you following your</p> <p>14 counsel's advice?</p> <p>15 A. Yes.</p> <p>16 Q. Do you see it list military ID cards at Section</p> <p>17 2 --</p> <p>18 A. Yes.</p> <p>19 Q. -- under A? Can you describe the different types</p> <p>20 of cards that that form of ID would encompass?</p> <p>21 MR. SWEETEN: You can answer.</p> <p>22 A. I assume any of the branches of the United States</p> <p>23 military that issues a photo ID would follow that</p> <p>24 description.</p> <p>25 Q. Do you know how many forms of different ID's that</p>

<p style="text-align: center;">121</p> <p>1 would be?</p> <p>2 A. I don't have that number now.</p> <p>3 Q. Would it be more than a dozen, fewer than a</p> <p>4 dozen?</p> <p>5 A. I don't know.</p> <p>6 Q. As to any of the forms of ID listed in BB 1706,</p> <p>7 do you know the intent of the bill's authors including</p> <p>8 that form of ID in HB 1706?</p> <p>9 MR. SWEETEN: Objection. You're asking for</p> <p>10 matters that are subject to the legislative privilege.</p> <p>11 MS. WESTFALL: I'm asking about the purpose</p> <p>12 and intent which is permissible.</p> <p>13 MR. SWEETEN: He can provide what he</p> <p>14 believes is the legislative purpose of a bill.</p> <p>15 MS. WESTFALL: And you're not allowing him</p> <p>16 to answer the legislative purpose of why a particular ID</p> <p>17 was listed in a particular bill? Is that your</p> <p>18 instruction to your client?</p> <p>19 MR. SWEETEN: What I'm telling you is he can</p> <p>20 provide an answer as to the general purpose of the bill.</p> <p>21 He cannot provide, pursuant the court's order. He does</p> <p>22 not have to provide the subjective intent of any</p> <p>23 specific legislator with respect to that bill. So you</p> <p>24 can ask him about what the purpose of the bill is, he</p> <p>25 can answer that. Otherwise, it is subject to the</p>	<p style="text-align: center;">123</p> <p>1 speculation. Also don't reveal any specific</p> <p>2 communications you've had related to HB 1706.</p> <p>3 MS. WESTFALL: I said do you know. It's not</p> <p>4 calling for speculation. You may answer.</p> <p>5 A. I don't know.</p> <p>6 BY MS. WESTFALL:</p> <p>7 Q. Are you aware of any communications related to</p> <p>8 the drafting of the element of HB 1706 outside of the</p> <p>9 Lieutenant Governor's office?</p> <p>10 A. No.</p> <p>11 Q. Are you aware of the source of legislative</p> <p>12 language of HB 1706?</p> <p>13 MR. SWEETEN: Don't reveal specific mental</p> <p>14 impressions, thoughts about specific legislation</p> <p>15 including the process by which the legislation came</p> <p>16 through. So I'm going to instruct you not to answer, if</p> <p>17 your answer would reveal that.</p> <p>18 A. I don't know.</p> <p>19 Q. (By MS. WESTFALL) Do you know anyone in the</p> <p>20 Lieutenant Governor's office who would have knowledge or</p> <p>21 testimony about the purpose of HB 1706?</p> <p>22 MR. SWEETEN: Objection, asked and answered.</p> <p>23 A. No.</p> <p>24 Q. (By MS. WESTFALL) Would the Lieutenant Governor</p> <p>25 himself know the purpose of HB 1706?</p>
<p style="text-align: center;">122</p> <p>1 legislative privilege.</p> <p>2 MS. WESTFALL: To be clear, you're not</p> <p>3 allowing him to answer any questions about the purpose</p> <p>4 of individual ID's included in this bill; is that right?</p> <p>5 MR. SWEETEN: I will let him testify as to</p> <p>6 what his understanding of the legislative purpose of a</p> <p>7 specific bill is.</p> <p>8 MS. WESTFALL: The overall bill; is that</p> <p>9 right, because I'll change the question. I just want to</p> <p>10 be clear of your objection.</p> <p>11 MR. SWEETEN: Yeah. I think that's what the</p> <p>12 court has said is you can ask as to the legislative</p> <p>13 purpose of a bill.</p> <p>14 BY MS. WESTFALL:</p> <p>15 Q. What is your understanding of the legislative</p> <p>16 purpose of HB 1706?</p> <p>17 A. I was not in Lieutenant Governor's office at the</p> <p>18 time, but my guess is they wanted to --</p> <p>19 MR. SWEETEN: Don't guess. Just answer the</p> <p>20 question she's posed.</p> <p>21 A. I don't know the purpose is the answer.</p> <p>22 Q. (By MS. WESTFALL) Do you know whether anyone in</p> <p>23 the Lieutenant Governor's office was involved in the</p> <p>24 development of drafting of HB 1706?</p> <p>25 MR. SWEETEN: Objection, calls for</p>	<p style="text-align: center;">124</p> <p>1 MR. SWEETEN: Objection, asked and answered.</p> <p>2 A. I don't know.</p> <p>3 Q. (By MS. WESTFALL) Are you aware of the source of</p> <p>4 any of the legislative language of HB 1706?</p> <p>5 MR. SWEETEN: Objection, asked and answered</p> <p>6 also.</p> <p>7 A. No.</p> <p>8 Q. (By MS. WESTFALL) Are you familiar with the</p> <p>9 Indiana photo ID law?</p> <p>10 MR. SWEETEN: You can answer that question.</p> <p>11 A. Yes.</p> <p>12 Q. (By MS. WESTFALL) Did you review that law?</p> <p>13 A. Yes.</p> <p>14 Q. When did you review that law?</p> <p>15 MR. SWEETEN: Don't reveal your mental</p> <p>16 thoughts and impressions about specific pending</p> <p>17 legislation, okay? In answering this question,</p> <p>18 A. I think I probably would have reviewed it</p> <p>19 certainly in '07 when I started with the Lieutenant</p> <p>20 Governor.</p> <p>21 Q. (By MS. WESTFALL) Would you describe the Indiana</p> <p>22 ID photo law as similar or dissimilar to HB 1706?</p> <p>23 MR. SWEETEN: Don't answer that. It</p> <p>24 requires you to reveal mental thoughts -- mental</p> <p>25 impression, thoughts, opinions about specific</p>

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1 legislation. Don't answer it.  
 2 Q. (By MS. WESTFALL) Based on the face of the  
 3 statutes, the Indiana photo ID law and HB 1706, and  
 4 based on your knowledge as a lawyer and with your  
 5 experience in election law, would you describe those --  
 6 that bill and the Indiana law as similar or dissimilar?  
 7 MR. SWEETEN: Objection, ask for a legal  
 8 conclusion. Objection, also you can -- I'll let you  
 9 answer, but don't reveal any thoughts, mental  
 10 impressions about any pending legislation. She's asked  
 11 you on the face of it and you can answer. Go ahead.  
 12 A. On the face of this bill and what I remember of  
 13 the Indiana law, they're similar.  
 14 Q. (By MS. WESTFALL) Can you describe, generally,  
 15 the legislator's consideration of HB 1706 after it was  
 16 filed?  
 17 MR. SWEETEN: Objection. Don't answer  
 18 except as to the matter it's public record. Don't  
 19 reveal thoughts or mental impressions about the  
 20 legislation, the process by which it went through. You  
 21 can answer as to public record.  
 22 A. I don't remember.  
 23 Q. (By MS. WESTFALL) After the House -- did the  
 24 House pass HB 1706?  
 25 A. I don't remember.

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1 Q. Could you mark this as US 74?  
 2 (Exhibit No. 74 was marked.)  
 3 Q. (By MS. WESTFALL) I'm handing you what's been  
 4 marked as US 74. Do you recognize this document?  
 5 MR. SWEETEN: Caution the witness to review  
 6 the document before answering questions about it.  
 7 A. Looks like a legislative history of HB 1706.  
 8 Q. (By MS. WESTFALL) Could you take a moment to  
 9 review this and let me know when you've had a chance to  
 10 look at it?  
 11 A. Okay.  
 12 Q. Does this document refresh your recollection as  
 13 to whether the House passed HB 1706?  
 14 A. It looks like it passed.  
 15 Q. And when it went to the senate, what committee  
 16 was it referred to?  
 17 A. Looks like it was referred to State Affairs.  
 18 Q. Would that have been the ordinary jurisdiction --  
 19 committee that would have jurisdiction over election  
 20 laws in the Senate?  
 21 A. It's fair to say that those election laws goes to  
 22 State Affairs Committee.  
 23 Q. What happened to HB 1706 after it was referred to  
 24 the State Affairs Committee?  
 25 MR. SWEETEN: You can answer as to the

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1 matters of public record.  
 2 A. I don't know. It didn't pass. But it was also  
 3 May.  
 4 Q. (By MS. WESTFALL) In other words, it was late in  
 5 the session?  
 6 A. Correct.  
 7 Q. Why was it referred to the State Affairs  
 8 Committee and not the Committee of the whole?  
 9 MR. SWEETEN: Don't answer that. Ask for  
 10 matters that are subject to legislative privilege.  
 11 A. I don't know.  
 12 Q. (By MS. WESTFALL) Are you following the advice  
 13 of your counsel?  
 14 MR. SWEETEN: I'm instructing you not to  
 15 answer that question. It asks for matters of  
 16 legislative privilege.  
 17 A. Yes.  
 18 Q. (By MS. WESTFALL) Do you know whether the  
 19 Lieutenant Governor took a public position on HB 1706?  
 20 A. I don't remember.  
 21 Q. Did you say you didn't remember?  
 22 A. I don't remember if he did or did not.  
 23 Q. Do you notice whether the Lieutenant Governor or  
 24 anyone in his office had any communications with anyone  
 25 about HB 1706?

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1 MR. SWEETEN: You can testify as to whether  
 2 or not you know of any communications.  
 3 A. I don't know of any.  
 4 Q. (By MS. WESTFALL) Are you aware of any analysis  
 5 conducted by the Lieutenant Governor's office prior  
 6 to -- actually, strike that.  
 7 Are you aware of any analysis conducted by the  
 8 Lieutenant Governor's office related to HB 1706?  
 9 MR. SWEETEN: Don't answer that. It asks  
 10 for matters that are subject to legislative privilege,  
 11 the deliberative process privilege, and the  
 12 attorney/client privilege.  
 13 Q. (By MS. WESTFALL) Are you following the advice  
 14 of your counsel?  
 15 A. Yes.  
 16 Q. Are you aware of any attempt to determine who  
 17 among registered voters did not possess the forms of ID  
 18 required or allowed by HB 1706?  
 19 MR. SWEETEN: Objection, calls for matters  
 20 that are legislatively privileged. Instruct not to  
 21 answer.  
 22 Q. (By MS. WESTFALL) Are you following your  
 23 counsel's advice?  
 24 A. I am.  
 25 Q. Sitting here today, what is your opinion of HB

<p style="text-align: center;">129</p> <p>1 1706?</p> <p>2 MR. SWEETEN: Don't answer to the extent</p> <p>3 that that question ask you to reveal your mental</p> <p>4 thoughts, impressions, about the legislation. So don't</p> <p>5 provide that if it does that.</p> <p>6 A. Seems like an attempt to ensure the integrity of</p> <p>7 the elections.</p> <p>8 Q. (By MS. WESTFALL) I'm sorry?</p> <p>9 A. Seems like an attempt to ensure the integrity of</p> <p>10 the elections and require photo ID.</p> <p>11 Q. Had this bill, HB 1706, been elected into law,</p> <p>12 would it have accomplished that purpose in your view?</p> <p>13 MR. SWEETEN: Objection. She's asking for</p> <p>14 matters that are subject to the legislative privileges,</p> <p>15 instruct not to answer.</p> <p>16 Q. (By MS. WESTFALL) Are you following the advice</p> <p>17 of your counsel?</p> <p>18 A. I am.</p> <p>19 Q. Was there a photo ID bill introduced in the next</p> <p>20 legislative session in 2007?</p> <p>21 A. I believe there was.</p> <p>22 Q. Do you remember that bill number?</p> <p>23 A. I don't. A lot of bill numbers.</p> <p>24 Q. Could you mark this as US 28?</p> <p>25 (Exhibit No. 28 was marked.)</p>	<p style="text-align: center;">131</p> <p>1 Q. Okay. Sir, I would like you to limit your</p> <p>2 discussion of the differences to the forms of allowable</p> <p>3 ID at section 63.0101 at Page 9. So you need not</p> <p>4 compare the whole bill. But could you tell me the</p> <p>5 differences in allowable forms of ID between HB 1706 and</p> <p>6 HB 218?</p> <p>7 A. Looks like 218 requires a Texas license and any</p> <p>8 license from Texas or other states. Looks like 218 does</p> <p>9 not allow State agency ID cards or county issued ID</p> <p>10 cards. Oh, wait, take that back. It does. Generally</p> <p>11 similar.</p> <p>12 Q. So is it your testimony that HB 218 now limits it</p> <p>13 to Texas driver's licenses and eliminated the use of</p> <p>14 county issued forms of ID; is that correct?</p> <p>15 A. I think that's right.</p> <p>16 Q. Pardon me. County election office issued ID; is</p> <p>17 that correct?</p> <p>18 A. That's correct.</p> <p>19 Q. Otherwise, the forms of allowable ID are similar</p> <p>20 to HB 1706?</p> <p>21 A. I think that's right.</p> <p>22 Q. But is it fair to say that it's a narrowing of</p> <p>23 the allowable forms of ID; is that correct?</p> <p>24 A. Yes.</p> <p>25 Q. As to the photo ID; is that correct?</p>
<p style="text-align: center;">130</p> <p>1 Q. (By MS. WESTFALL) You've been handed what's been</p> <p>2 previously marked as US Exhibit 28. Do you recognize</p> <p>3 this document?</p> <p>4 A. It's a photo ID bill from the '07 session.</p> <p>5 Q. Who authored the bill?</p> <p>6 A. Representatives Brown, Berman, Bohac, Riddle and</p> <p>7 others.</p> <p>8 Q. Are you familiar with the provisions of HB 218?</p> <p>9 A. Yeah.</p> <p>10 Q. Could you compare HB 218 with HB 1706 and tell me</p> <p>11 if there are any major difference that strike you?</p> <p>12 MR. SWEETEN: In answering the question, I</p> <p>13 don't want you to reveal any thoughts, mental</p> <p>14 impressions or opinions about those two bills or</p> <p>15 legislation that occurred -- that you would have</p> <p>16 developed in the furtherance of the legislative process.</p> <p>17 She's asking you to compare the text of two bills right</p> <p>18 now. I'm not objecting to that specific question.</p> <p>19 Q. (By MS. WESTFALL) Thank you.</p> <p>20 A. Looks like the HB 218 has some exceptions for --</p> <p>21 or a place for military and military widows or widowers</p> <p>22 to indicate they are that status on their registration</p> <p>23 form. And for the registration form to include a notice</p> <p>24 on there whether or not it is a disabled veteran or</p> <p>25 military widow or widower.</p>	<p style="text-align: center;">132</p> <p>1 A. Correct.</p> <p>2 Q. And HB 218 as with HB 1706 still allows the use</p> <p>3 of non photo ID; is that correct?</p> <p>4 A. Correct.</p> <p>5 Q. And turning your attention to the forms of</p> <p>6 allowable photo ID, is it your view that student IDs</p> <p>7 issued by a state institution are still permissible</p> <p>8 forms of photo ID under HB 218, though they're not</p> <p>9 expressly identified as such?</p> <p>10 A. Well, in 218 --</p> <p>11 Q. 218.</p> <p>12 A. In par in six says, a student ID card that</p> <p>13 contains their photograph is acceptable.</p> <p>14 Q. Thank you. Did you or anyone in the Lieutenant</p> <p>15 Governor's office play any role in the development of</p> <p>16 218?</p> <p>17 MR. SWEETEN: Objection. I don't want you</p> <p>18 to discuss any matters that are subject to the</p> <p>19 legislative privilege, which could include thoughts or</p> <p>20 mental impressions opinions about legislative or could</p> <p>21 also reveal communications of legislators, legislative</p> <p>22 staff, State agencies, Texas Legislative Council, those</p> <p>23 are all matters of legislative privilege so do not</p> <p>24 reveal any specifics with respect to that. They're</p> <p>25 privileged.</p>

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1 A. The question is did Lieutenant Governor or staff  
2 play a role in the development of HB 218?

3 Q. (By MS. WESTFALL) Yes.

4 MR. SWEETEN: I'm going to instruct you not  
5 to answer if it would reveal matters that are subject to  
6 the privilege.

7 A. The answer is don't recall.

8 Q. (By MS. WESTFALL) So you're not asserting  
9 privilege with regard to that answer?

10 A. Correct.

11 Q. Were you present at any meetings during the  
12 development or drafting of HB 218?

13 MR. SWEETEN: Same objection, same  
14 instruction.

15 A. I don't recall.

16 Q. (By MS. WESTFALL) Are you aware of who in  
17 particular was involved in the drafting of HB 218?

18 A. No.

19 Q. Are you aware of any concerns raised during the  
20 development, drafting or consideration of HB 218 about  
21 the impact of the bill on Hispanic voters?

22 MR. SWEETEN: That calls for matters that  
23 are subject to the legislative privilege, the  
24 deliberative process privilege, as well as potentially  
25 attorney/client privileged information, so don't answer

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1 Q. (By MS. WESTFALL) Are you going to answer the  
2 question or follow the advice of council?

3 A. Follow the advice.

4 Q. Did you learn or become aware of any concerns  
5 raised about HB 218?

6 MR. SWEETEN: Same objection, legislative  
7 privilege, same instruction, don't answer the question.

8 Q. (By MS. WESTFALL) Are you following advice of  
9 council?

10 A. I am.

11 Q. If there's a bill in the House that gets passed  
12 and then referred to the senate, how is it determined  
13 who sponsors the House in the senate as a general  
14 matter?

15 MR. SWEETEN: I'm going to object to the  
16 question. I think you're asking for matters that are  
17 subject to the legislative privilege.

18 MS. WESTFALL: You are not going to allow  
19 him to answer generally?

20 MR. SWEETEN: Let me hear the question  
21 again. Madam, court reporter, will you please read it  
22 back?

23 (Requested question was read.)

24 MR. SWEETEN: You can answer as a general  
25 matter. Don't reveal matters subject to legislative

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1 the question.

2 Q. (By MS. WESTFALL) Are you following advice of  
3 counsel?

4 A. I am.

5 Q. Are you aware of any concerns raised during the  
6 development or drafting of HB 218 about the impact of  
7 bill on Black voter?

8 MR. SWEETEN: Same objection, same  
9 instruction.

10 Q. (By MS. WESTFALL) Are you following the advice  
11 of council?

12 A. I am.

13 Q. Are you aware of any analysis conducted to  
14 determine the impact of HB 218 on racial or ethnic  
15 minority voters?

16 MR. SWEETEN: Objection, legislative  
17 privilege. My instruction is to not answer the  
18 question.

19 Q. (By MS. WESTFALL) Are you following the advice  
20 of council?

21 A. I am.

22 Q. Did you monitor consideration of HB 218 in the  
23 House?

24 MR. SWEETEN: Objection. I think that calls  
25 for matters subject to the legislative privilege.

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1 privilege. So go ahead.

2 A. I think generally there's communications between  
3 House sponsors and senators, people who share priorities  
4 sponsor each other's bills.

5 Q. (By MS. WESTFALL) So generally speaking, is the  
6 Lieutenant Governor not a party to those communications?

7 MR. SWEETEN: Objection, I mean, that's  
8 vague. It also ask about his particular role in  
9 legislation. That is subject to the legislative  
10 privilege.

11 MS. WESTFALL: I'm not referring to any  
12 particular legislative act. I'm asking about general  
13 procedures. Will you let your witness answer that  
14 question?

15 MR. SWEETEN: You're asking about general --  
16 can you read the question back again.

17 (Requested question was read.)

18 BY MS. WESTFALL:

19 Q. To those conversations, I think, about who  
20 will -- who in the Senate will sponsor a House Bill?

21 MR. SWEETEN: Objection to the question.  
22 Objection form, objection vague. Objection, it's  
23 compound. You can answer as a general matter to that  
24 question. Do not refer to any specific legislation in  
25 answering that. In particular, Senate Bill 14 or these



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1 bills she's showing you. Okay.

2 A. I think generally the Lieutenant Governor is not  
3 involved in who sponsors what.

4 Q. (By MS. WESTFALL) Does he become involved if he  
5 has particular interest in a bill and who will be the  
6 senate sponsor of a House bill?

7 MR. SWEETEN: Same objection, same  
8 instruction.

9 A. I don't know.

10 Q. (By MS. WESTFALL) So Janice McCoy has testified  
11 in this litigation. Did you review her transcript in  
12 advance of this deposition today?

13 A. No.

14 Q. So she testified that she had one or two dozen  
15 conversations with the Lieutenant Governor's office  
16 about HB 218, including the person who staffed State  
17 Affairs for the Lieutenant Governor. Was that you?

18 MR. SWEETEN: Objection to the form of the  
19 question.

20 A. In '07 --

21 MR. SWEETEN: Objection, calls for facts not  
22 in evidence. Go ahead.

23 A. -- probably yes. I should say there's several  
24 people that staff State affairs although my guess is I  
25 would have been one of those people.

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1 Q. (By MS. WESTFALL) Who were the other people in  
2 2007 that were staffing State affairs besides you?

3 A. State affairs is a large-- insurance bills would  
4 have been Karen Barret and health related bills would  
5 have been Jamie Dudensten. And my memory is during this  
6 session, myself and general counsel Frank Battle  
7 probably would have split the elections bills. There  
8 may have been others.

9 Q. And Ms. McCoy and Senator Fraser when they  
10 testified in this matter also testified that they met  
11 with the Lieutenant Governor's office and indicated that  
12 Senator Fraser wanted to sponsor HB 218. Is that your  
13 recollection as well?

14 MR. SWEETEN: Objection, assumes facts not  
15 in evidence. You can answer to the extent you know.

16 A. I don't know. I don't remember.

17 Q. (By MS. WESTFALL) Are you aware of any meeting  
18 that occurred between Senator Fraser or Janice McCoy or  
19 with the Lieutenant Governor concerning sponsorship of  
20 HB 218 in the Senate?

21 A. I don't recall.

22 Q. You don't recall?

23 A. I don't recall a meeting.

24 Q. Were you aware of Senator Fraser's interest in  
25 sponsoring HB 218 in the Senate?

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1 MR. SWEETEN: Don't reveal matters that are  
2 subject to communications that you've had with  
3 legislators or legislative staff. So if it would reveal  
4 a communication you had with his office or one of his  
5 staffers, don't reveal that information.

6 A. I think I was aware when he filed it or shortly  
7 before, possibly, but I can't remember.

8 MR. SWEETEN: You can testify as to matters  
9 of public record. We need a bathroom break.

10 (Brief recess.)

11 BY MS. WESTFALL:

12 Q. We're back on the record. Before the break we  
13 were discussing HB 218 and talking about Janice McCoy's  
14 testimony about this bill, do you remember that?

15 A. I do.

16 Q. Ms. McCoy testified in her deposition in this  
17 case that she had never had any discussions with anyone  
18 in the Lieutenant Governor's office about the impact of  
19 HB 218 on minority voters. To your knowledge, is that  
20 accurate?

21 MR. SWEETEN: Don't reveal in answering the  
22 question legislative privilege would cover  
23 communications that you've had with legislative staff,  
24 don't reveal any substance of any communications that  
25 you've had with staff as that is a matter covered by

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1 legislative privilege.

2 Q. (By MS. WESTFALL) Can you answer the question?

3 MR. SWEETEN: You can testify if you had a  
4 conversation with Janice McCoy. Don't testify about the  
5 substance of it. The way it's currently phrased,  
6 they're asking you the substance of the conversation.  
7 Therefore, I'm instructing you not to answer it as  
8 phrased.

9 Q. (By MS. WESTFALL) Are you following your  
10 counsel's advice?

11 A. Yes.

12 Q. Are you aware of any discussions that occurred  
13 about the impact of HB 218 on minority voters?

14 MR. SWEETEN: Again, in the question she's  
15 asking you the substance of the conversations. The  
16 question is problematic from that standpoint. I'll  
17 allow you to answer as to any conversations you've had,  
18 who those conversations were with, including whether you  
19 had a discussion with Janice McCoy. However, as the  
20 question is phrased, I believe the question is calling  
21 for you to reveal the substance of communications and  
22 therefore I'm instructing you not to answer the  
23 question.

24 Q. (By MS. WESTFALL) Are you following your  
25 counsel's advice?

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1 A. Yes.  
 2 Q. The question was not about -- just to clarify,  
 3 for the witness, the question was not about  
 4 conversations with Janice McCoy. Are you aware of any  
 5 discussions about the impact of HB 218 on minority  
 6 voters?  
 7 MR. SWEETEN: You can reveal if you're aware  
 8 of any specific discussions regarding that subject  
 9 matter, but do not reveal anything beyond that.  
 10 A. I don't recall.  
 11 Q. (By MS. WESTFALL) Are you aware of any  
 12 communications with election officials concerning HB  
 13 218?  
 14 MR. SWEETEN: You can answer as phrased.  
 15 A. I don't recall.  
 16 Q. (By MS. WESTFALL) Are you aware of a statement  
 17 by Secretary of State, Roger Williams, that he wasn't  
 18 sure if a photo ID bill would improve turn out?  
 19 MR. SWEETEN: You can answer, if you are  
 20 aware.  
 21 A. I don't recall that statement.  
 22 Q. (By MS. WESTFALL) Do you know the party  
 23 affiliation of Secretary Williams?  
 24 A. I believe he's Republican.  
 25 THE REPORTER: Can you speak up.

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1 A. I believe he's Republican.  
 2 Q. (By MS. WESTFALL) What were the purposes of the  
 3 bills authors in introducing HB 218?  
 4 MR. SWEETEN: Don't reveal the subjective  
 5 intent of any specific person. You can -- you can as  
 6 the court has indicated, you can provide your  
 7 understanding of the purpose of the bill itself was, but  
 8 don't speculate as to subjective intent. You don't have  
 9 to do that and that's privileged.  
 10 MS. WESTFALL: I'm not asking about  
 11 subjective intent. Just to be clear. My question was  
 12 limited to the purpose of HB 218.  
 13 MR. SWEETEN: You can answer as to the  
 14 purpose of 218 as phrased.  
 15 A. If you're asking why they filed it?  
 16 Q. (By MS. WESTFALL) Yes.  
 17 A. I don't know. Presumably to improve the  
 18 integrity of the election process in Texas.  
 19 Q. How do you know that?  
 20 MR. SWEETEN: Don't reveal the conversations  
 21 that you've had. Those would be legislatively  
 22 privileged. You can answer as to the purpose of the  
 23 bill, I think you have, but you don't have to give all  
 24 the conversations you've had or the discussions mental  
 25 impressions that occurred as that bill was considered.

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1 Don't answer if it would reveal that information.  
 2 A. Just seems a natural purpose to file this sort of  
 3 legislation.  
 4 Q. (By MS. WESTFALL) You mean, to your mind -- in  
 5 your mind HB 218 would improve the integrity of the  
 6 election process? Is that your testimony?  
 7 A. That wasn't your question, I don't think. I  
 8 thought your question was, why do I think they did it.  
 9 I don't know why they did it. My guess is because it  
 10 would improve integrity of the elections.  
 11 Q. And then what is basis of your supposition that  
 12 that was the purpose in introducing HB 218?  
 13 MR. SWEETEN: In answering that question  
 14 don't reveal conversations you had that would be subject  
 15 to the legislative privilege or thoughts, mental  
 16 impressions about that specific legislation. If you can  
 17 answer without doing so, you can do so.  
 18 A. I mean, there's been lots of election bills and  
 19 voter ID bills filed. And I would say it's fair to say  
 20 that in those cases for those similar bills that was the  
 21 purpose.  
 22 Q. (By MS. WESTFALL) Were there any other purposes  
 23 that you're aware of underlying the filing of HB 218?  
 24 A. I'm not aware.  
 25 Q. Are you aware of any evidence that there was a

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1 problem with the integrity of elections at the time HB  
 2 218 was filed?  
 3 MR. SWEETEN: The question as phrased ask  
 4 you to reveal information, mental impressions, thoughts,  
 5 about specific legislation. In answer to the question,  
 6 don't do that. You can reveal matters that are on the  
 7 public record, but do not reveal the substance of  
 8 conversations and don't reveal mental impressions.  
 9 Those would be subject to the legislative privilege. So  
 10 objection.  
 11 A. I don't recall public discussion of the purpose  
 12 of this.  
 13 Q. (By MS. WESTFALL) Are you following the advice  
 14 of council as to any other purposes you're aware of or  
 15 basis of problems?  
 16 MR. SWEETEN: That wasn't your question.  
 17 Your question was different than that. If you want to  
 18 ask him what the purpose of the bill was, you can ask  
 19 him that.  
 20 Q. (By MS. WESTFALL) Is your response as to  
 21 evidence supporting need for the problem based on  
 22 private information for which you are asserting  
 23 privilege?  
 24 MR. SWEETEN: That is privileged, I would so  
 25 instruct you not to reveal mental impressions about the

<p style="text-align: center;">145</p> <p>1 legislation or conversations that you've had with</p> <p>2 anyone, any legislators, legislative staff or the other</p> <p>3 enumerated individuals or entities.</p> <p>4 A. The short answer is I just don't recall.</p> <p>5 Q. (By MS. WESTFALL) Was HB 218 in part designed to</p> <p>6 prevent noncitizens from voting?</p> <p>7 MR. SWEETEN: Don't answer that. You can</p> <p>8 answer as to the specific purpose of the legislation.</p> <p>9 She's now asking you about the design and the intent of</p> <p>10 the subjective intent of individuals. So you can answer</p> <p>11 as to the purpose of the legislation, the court has said</p> <p>12 that you can and so I will allow that. But I'm not --</p> <p>13 but legislative privilege covers mental impression,</p> <p>14 thoughts, about the bill in conversations related to the</p> <p>15 bill.</p> <p>16 Q. (By MS. WESTFALL) Do you have any testimony in</p> <p>17 response to my question?</p> <p>18 A. I think the answer is I don't know.</p> <p>19 Q. Are you following the advice of your council not</p> <p>20 to provide testimony?</p> <p>21 MR. SWEETEN: And the correct question is,</p> <p>22 are you saying that you don't know at all or are you</p> <p>23 saying I don't know based upon the instruction.</p> <p>24 A. I'm saying I don't know at all.</p> <p>25 Q. (By MS. WESTFALL) Was the purpose of HB 218 in</p>	<p style="text-align: center;">147</p> <p>1 said that you do not have to testify based upon the</p> <p>2 legislative privilege about the subjective intent of</p> <p>3 individuals who passed a bill. You can testify about</p> <p>4 the purpose of the legislation. When you're answering</p> <p>5 this question, don't reveal matters that are subject to</p> <p>6 legislative privilege, including the deliberations,</p> <p>7 conversations, or mental impressions you may have had</p> <p>8 when this particular bill was moving forward. So you</p> <p>9 can answer to the extent you can.</p> <p>10 A. So how does one determine the purpose of the law</p> <p>11 after it has passed Legislature.</p> <p>12 Q. (By MS. WESTFALL) Where does one look to</p> <p>13 determine and ascertain and derive purpose?</p> <p>14 A. To the extent that the purpose is relevant to the</p> <p>15 law, then I imagine a court would look at that and some</p> <p>16 courts would give weight to things like history and</p> <p>17 public comments and other courts would dismiss the</p> <p>18 importance of legislative history entirely.</p> <p>19 Q. I believe you just testified that you saw</p> <p>20 protecting the integrity of elections and preventing</p> <p>21 noncitizens from voting was the same purpose; is that</p> <p>22 correct?</p> <p>23 A. I'm sorry. Could you repeat?</p> <p>24 Q. I may have misunderstood you or misheard you.</p> <p>25 But did you testify that ensuring integrity elections</p>
<p style="text-align: center;">146</p> <p>1 part to prevent noncitizens from voting?</p> <p>2 MR. SWEETEN: You can answer as to the</p> <p>3 purpose of 218.</p> <p>4 A. It seems to me. I'm not sure how that's</p> <p>5 different from the last question. I don't know the</p> <p>6 purpose. I don't know why these members filed this</p> <p>7 bill.</p> <p>8 Q. (By MS. WESTFALL) Are you aware of</p> <p>9 representative Betty Brown, who was the sponsor of 218</p> <p>10 stating on the House floor that it was designed to keep</p> <p>11 illegal aliens, noncitizens and otherwise people not</p> <p>12 qualified from voting?</p> <p>13 A. I don't recall that.</p> <p>14 Q. How do you determine what is legislative purpose</p> <p>15 of a bill?</p> <p>16 A. I mean, when you say legislative purpose I think</p> <p>17 of the intent of the author. Sometimes that is spelled</p> <p>18 out in the bill in the four corners of the document,</p> <p>19 what is the intent and other times it's from the floor</p> <p>20 statement. Other times it's in their head and I don't</p> <p>21 have access to that.</p> <p>22 Q. How do you figure out the intent when a bill is</p> <p>23 enacted? How do you figure out the purpose of the bill</p> <p>24 besides what you've just testified to?</p> <p>25 MR. SWEETEN: Okay. Again, the court has</p>	<p style="text-align: center;">148</p> <p>1 and preventing noncitizens from voting are one and the</p> <p>2 same?</p> <p>3 A. I don't think I mentioned noncitizens. I</p> <p>4 mentioned that ensuring the integrity of the election</p> <p>5 system and instilling confidence in that system and the</p> <p>6 voting public's purpose.</p> <p>7 Q. Okay. Do you believe that HB 218 would prevent</p> <p>8 noncitizens from voting?</p> <p>9 MR. SWEETEN: Don't provide an answer to</p> <p>10 that. That calls for matters that are legislatively</p> <p>11 privileged.</p> <p>12 Q. (By MS. WESTFALL) Based on the face of the</p> <p>13 statute?</p> <p>14 A. I think I don't know.</p> <p>15 MR. SWEETEN: You're asking his mental</p> <p>16 impressions about a specific bill that is covered by the</p> <p>17 legislative privilege. He can answer as to what he</p> <p>18 thinks the legislative purpose is. He won't answer as</p> <p>19 to subjective intent or his own personal mental</p> <p>20 impressions about the bill. It's legislatively</p> <p>21 privileged. Objection.</p> <p>22 Q. (By MS. WESTFALL) can you answer the question?</p> <p>23 A. The question is, will this bill prevent</p> <p>24 noncitizens from voting?</p> <p>25 Q. Correct.</p>

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1 A. I think to the extent it's designed to prevent  
2 ineligible voters from voting and noncitizens or  
3 ineligible voters, it probably will have that effect.  
4 Q. Is it your understanding that a person's -- a  
5 voter applicant's citizenship is determined by county  
6 election officials when a person submits a voter  
7 registration application?

8 MR. SWEETEN: As it currently stands? The  
9 current law or are you talking about under a new bill.

10 MS. WESTFALL: Under any law.

11 MR. SWEETEN: Under current law, you're  
12 asking the question?

13 BY MS. WESTFALL:

14 Q. Do you understand the question?

15 A. I think, yes. I think my understanding is you're  
16 registered to vote in a county. That county registrar  
17 determines whether you're eligible and if you are  
18 submits that information to the Secretary of State.

19 Q. And as part of the voter registration  
20 application, does an applicant indicate whether he or  
21 she is a US citizen?

22 MR. SWEETEN: You can answer.

23 A. I'm pretty sure, yes, but I don't have a  
24 registration card in front of me.

25 Q. (By MS. WESTFALL) And does photo ID legislation

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1 A. I believe that they can.

2 Q. Do you know whether noncitizens in the State of  
3 Texas can obtain a concealed handgun license?

4 A. I'm actually not sure of that.

5 Q. Do you know whether in the State of Texas a  
6 noncitizen can obtain a military ID?

7 A. I'm not sure of that either.

8 Q. So if -- suppose a noncitizen submitted a voter  
9 registration application and falsely indicated that he  
10 or she was a US citizen and was added to the voter rolls  
11 as a citizen, and then appeared at the polls on election  
12 day with a driver's license that indicated his or her  
13 identify, visually you could match the person and was  
14 able to vote. Would that -- would that scenario be  
15 prevented by HB 218 or similar photo ID legislation?

16 MR. SWEETEN: In answering this question,  
17 don't reveal your thoughts, mental impressions, or  
18 opinions, about legislation or information you learned  
19 from conversations with legislative staff members,  
20 legislators, State agencies, Texas Legislative Council.  
21 You can answer to the extent you're not revealing that  
22 information.

23 A. So the question is, a noncitizen has registered  
24 to vote and has a photo ID, does this bill stop that  
25 person from voting?

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1 including HB 218, help to prevent persons who are not US  
2 citizens from casting a ballot?

3 MR. SWEETEN: When you're answering this  
4 question don't reveal your mental processes thoughts,  
5 communications, with other people regarding specific  
6 legislation. To the extent that you can answer not  
7 based upon that information, you can do so.

8 A. Again, I think, my guess, is this bill would  
9 prevent some number of ineligible voters from voting and  
10 to the extent that noncitizens are not eligible, then  
11 they would be prevented from voting.

12 Q. (By MS. WESTFALL) Can you elaborate on that and  
13 how that would work?

14 MR. SWEETEN: Again, don't reveal matters  
15 that are subject to the legislator privilege in  
16 answering this question.

17 Q. (By MS. WESTFALL) Under the face of this  
18 statute?

19 A. On the face of House Bill 218, if you do not have  
20 proper identification and you do not fall into one of  
21 these exceptions, then you are not eligible to vote. So  
22 to the extent you are a citizen or a noncitizen and fit  
23 that description, you would not be eligible to vote.

24 Q. Do you know under current law whether noncitizens  
25 can obtain driver's licenses in the State of Texas?

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1 Q. (By MS. WESTFALL) Correct.

2 A. I guess I'm not clear. Maybe there's some types  
3 of ID under this bill that would have an indication of  
4 whether the person was a citizen or not a citizen, which  
5 presumably would be discovered by the poll worker.

6 Q. Could you turn your attention again to HB 218 and  
7 look at the list of photo IDs? I believe it begins on  
8 Page 9, of section 63.0101?

9 A. Yeah.

10 Q. Could you identify one of the documentary -- one  
11 of the photo IDs that would indicate a person's  
12 citizenship?

13 A. Again, I think outside the bounds of this  
14 document, it may be that, you know, the Department of  
15 Public Safety has guidelines for what a driver's license  
16 looks like or that the United States Military has  
17 guidelines for what a military ID looks like and those  
18 guidelines might include some designation for citizen  
19 versus noncitizen. Same as perhaps any of these.

20 Q. Is your testimony today that you are uncertain of  
21 whether the IDs indicate a person's citizenship status?

22 MR. SWEETEN: You can answer the question,  
23 but don't do it based upon matters that you learned  
24 prior to the bill's passage, including the conversations  
25 we've talked about. Don't reveal your thoughts and

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1 mental impressions, but you can answer if you're not  
 2 doing that.  
 3 A. Right. In the case of some of these I am unsure.  
 4 Q. (By MS. WESTFALL) Which ones are you unsure of?  
 5 Could you just identify those for the record?  
 6 A. Out of the list starting on Page 9?  
 7 Q. Yes.  
 8 A. Military identification I'm not sure. Employer  
 9 identification cards, it would depend on the employer  
 10 perhaps. Student identification cards perhaps. Again,  
 11 I'm unclear about concealed handgun licenses and number  
 12 eight is broad enough to include some card that has a  
 13 citizenship designation. That's any ID card issued by  
 14 the federal government or State government and then  
 15 subsection B official mail addressed to the person or  
 16 governmental entity that seems like it.  
 17 Q. What is the most commonly held form of  
 18 identification on this list, of photo IDs?  
 19 MR. SWEETEN: You can answer the question,  
 20 but as you're doing so don't reveal the thoughts, mental  
 21 impressions, about specific legislation or information  
 22 you have learned from conversations between legislatures  
 23 because that would be legislatively privileged. But you  
 24 can answer the question to the extent you're not doing  
 25 that.

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1 A. So on House Bill 218, what is the most common  
 2 form of photo ID?  
 3 Q. (By MS. WESTFALL) Yes.  
 4 A. I don't know that. I would guess a driver's  
 5 license, but number eight seems broad enough that any ID  
 6 from a federal or state institution. I don't know.  
 7 Q. And it was your testimony earlier that you were  
 8 uncertain whether driver's license indicates US  
 9 citizenship; is that correct?  
 10 A. That's correct. I don't believe it does, but I'm  
 11 not a 100 percent sure.  
 12 Q. After the House -- maybe you testified about this  
 13 earlier. Oh, no. After the House passed HB 218, was it  
 14 considered by the senate?  
 15 MR. SWEETEN: You can answer as matters of  
 16 public record.  
 17 A. I don't recall.  
 18 Q. (By MS. WESTFALL) Could you mark this as 75?  
 19 (Exhibit No. 75 was marked.)  
 20 Q. (By MS. WESTFALL) You've been handed what's  
 21 marked US 75. Do you recognize this document?  
 22 A. Yes.  
 23 Q. What is it?  
 24 A. It's the legislative history of HB 218.  
 25 Q. Have you reviewed this before today?

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1 A. I may have a long time ago, but not so that I can  
 2 remember it.  
 3 Q. Can you take a look at US 75 and let me know  
 4 whether based on this document it refreshes your memory  
 5 as to whether HB 218 was referred to the State Affairs  
 6 Committee?  
 7 A. It was.  
 8 Q. About the Lieutenant Governor made that committee  
 9 assignment, correct?  
 10 A. Presumably, yes.  
 11 Q. Did the committee hold a hearing on HB 218?  
 12 A. Yes.  
 13 Q. And under the -- I believe, you testified under  
 14 the senate rules of Lieutenant Governor is not the --  
 15 does not serve on the committee of State Affairs; is  
 16 that right?  
 17 A. Correct.  
 18 Q. And therefore he cannot order, convene committee  
 19 hearings or call witnesses; is that right?  
 20 A. Correct.  
 21 Q. Do you know who testified at that hearing?  
 22 A. I do not recall.  
 23 Q. And you were handling State Affairs that year; is  
 24 that correct?  
 25 A. Correct.

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1 Q. Do you know whether the bill was amended in  
 2 committee?  
 3 A. I don't recall that either.  
 4 Q. And after committee consideration, was it voted  
 5 out of committee?  
 6 A. Yes. This indicates that it was.  
 7 Q. Was it voted out on party lines?  
 8 A. I don't recall that either.  
 9 Q. Did HB 218 require the support of two-thirds of  
 10 the senators to bring it to the floor for a vote?  
 11 A. In '07, I believe those were the senate rules,  
 12 yes.  
 13 Q. And why was that quantum of senators required?  
 14 A. That is a long standing rule that applies to all  
 15 bills in the senate. Two-thirds of the senate must  
 16 agree to take items out of order and there's typically a  
 17 place holder bill at the top of the calendar.  
 18 Q. What is the purpose of that rule?  
 19 MR. SWEETEN: You can answer.  
 20 A. I don't know the purpose. I think most people  
 21 would say it encourages some level of conciliation or  
 22 cooperation.  
 23 Q. (By MS. WESTFALL) What was the partisan  
 24 composition of the Senate in 2007, do you recall?  
 25 A. I don't recall. Maybe -- I would guess 21/10,

<p style="text-align: center;">157</p> <p>1 but I don't know for sure.</p> <p>2 Q. And if all democrats were present on the floor to</p> <p>3 vote against the bill, could they block legislation</p> <p>4 subject to the two-thirds rule?</p> <p>5 A. In 2007?</p> <p>6 Q. 2007?</p> <p>7 A. Yeah. It would take 11 votes. And so if it was</p> <p>8 21 to 10, then, no, the democrats would not be able to</p> <p>9 stop it or the opposition would not be able to stop it.</p> <p>10 Q. Do you believe there were 11 democrats?</p> <p>11 MR. SWEETEN: Objection, asked and answered.</p> <p>12 Q. (By MS. WESTFALL) Did the Lieutenant Governor</p> <p>13 attempt to bring 218 -- pardon me. HB 218 to the Senate</p> <p>14 floor for a vote?</p> <p>15 MR. SWEETEN: You can answer the question.</p> <p>16 But in doing so don't reveal communications you've had</p> <p>17 with other members of the Lieutenant Governor's staff or</p> <p>18 mental impressions regarding this specific bill, but you</p> <p>19 ask answer if you know.</p> <p>20 A. I don't recall. I'm trying to remember looking</p> <p>21 at this.</p> <p>22 Q. (By MS. WESTFALL) Do you know any of the</p> <p>23 circumstances under which Lieutenant Governor brought HB</p> <p>24 218 to the Senate floor?</p> <p>25 MR. SWEETEN: Objection vague. Also</p>	<p style="text-align: center;">159</p> <p>1 you are aware of the conversation.</p> <p>2 A. I don't think so, no.</p> <p>3 Q. (By MS. WESTFALL) Do you know -- strike that.</p> <p>4 When the Lieutenant Governor called a vote to</p> <p>5 bring HB 218 to the Senate for a vote, how many Senators</p> <p>6 were present on the Senate floor?</p> <p>7 A. I do not recall.</p> <p>8 Q. Do you recall whether anyone was not present?</p> <p>9 A. When the vote was called? No.</p> <p>10 Q. Are you aware of whether Lieutenant Governor was</p> <p>11 aware at the time of the Senate vote on HB 218 of the</p> <p>12 concerns that HB 218 would disproportionately harm</p> <p>13 minority voters?</p> <p>14 MR. SWEETEN: Okay. I'm going to object</p> <p>15 based upon legislative privilege and also based upon</p> <p>16 speculation. I'm going to instruct you not to reveal</p> <p>17 information that you may have learned from any</p> <p>18 conversations with the Lieutenant Governor, with any</p> <p>19 legislators, with any legislative staff, state agencies,</p> <p>20 Texas Legislative Council. So that's my instruction to</p> <p>21 you. Don't answer the question as posed.</p> <p>22 A. I'm not aware of such information.</p> <p>23 Q. (By MS. WESTFALL) Are you asserting privilege</p> <p>24 over some of your testimony based upon council's advice?</p> <p>25 MR. SWEETEN: I'm instructing you that what</p>
<p style="text-align: center;">158</p> <p>1 objection, I'm going to instruct you not to reveal</p> <p>2 matters of legislative privilege including conversations</p> <p>3 between legislators, between Lieutenant Governor, staff</p> <p>4 members, other individuals.</p> <p>5 A. I don't recall.</p> <p>6 Q. (By MS. WESTFALL) Are you following the</p> <p>7 instruction of council and asserting privilege over some</p> <p>8 your testimony or is it your testimony fully that you</p> <p>9 don't recall anything about this?</p> <p>10 A. My testimony is, that I do not recall whether the</p> <p>11 Lieutenant Governor what he did in the process of</p> <p>12 bringing this or not bringing this to the Senate floor.</p> <p>13 Q. Were you present in any meetings or a party to</p> <p>14 any conversations that the Lieutenant Governor held</p> <p>15 concerning the timing of the vote of HB 218 on the</p> <p>16 Senate floor?</p> <p>17</p> <p>18 MR. SWEETEN: I'll let you answer as too</p> <p>19 whether or not -- you can answer.</p> <p>20 A. I don't recall anything like that.</p> <p>21 Q. (By MS. WESTFALL) Are you aware of any</p> <p>22 conversation between the Senator or any member of the</p> <p>23 Senate the day before the vote? Or the day of the vote</p> <p>24 in the Senate?</p> <p>25 MR. SWEETEN: You can answer whether or not</p>	<p style="text-align: center;">160</p> <p>1 she's asking you would require you to reveal privilege.</p> <p>2 So my instruction would be to not answer the question.</p> <p>3 Q. (By MS. WESTFALL) Are you following your</p> <p>4 counsel's advice?</p> <p>5 A. Yes.</p> <p>6 Q. Where were you working, physically, in the</p> <p>7 capital the day of the vote for HB 218 on the Senate</p> <p>8 floor?</p> <p>9 A. I don't remember. I most certainly was not on</p> <p>10 the Senate floor. It would have been my first session.</p> <p>11 So I probably was in my office, which is in the basement</p> <p>12 two floors below.</p> <p>13 Q. Are you aware that the vote on HB 218 was held</p> <p>14 when not all members were present on the floor?</p> <p>15 A. I don't know.</p> <p>16 Q. Can you recall during your time working for the</p> <p>17 Lieutenant Governor of any time when a vote was held,</p> <p>18 intentionally scheduled to be brought to the floor when</p> <p>19 a member of the Senate was sick and had called in sick</p> <p>20 that day?</p> <p>21 MR. SWEETEN: You can answer to the extent</p> <p>22 you're not being asked to reveal matters of legislative</p> <p>23 privilege.</p> <p>24 A. I'm not aware of such circumstance.</p> <p>25 Q. (By MS. WESTFALL) Do you know that there was a</p>



<p style="text-align: center;">165</p> <p>1 A. I'm not aware of any specifics other than it came 2 out after the vote we discussed earlier. 3 Q. Did you, yourself, have any part in drafting 4 this? 5 A. No. I should say it's possible I reviewed, you 6 know, some of the statistics and things in here, but I 7 did not draft this letter. 8 Q. Would the press person in Mr. Dewhurst's office 9 likely have drafted this? 10 MR. SWEETEN: Objection, calls for 11 speculation. 12 A. I really don't know. 13 Q. (By MS. WESTFALL) So you handled photo ID for 14 the Lieutenant Governor, correct? 15 A. I handled the legal and procedural analysis of 16 it, yes. 17 Q. And you testified and identified a press person 18 earlier; is that correct? 19 A. Correct. 20 Q. And the press person in your office, did he 21 usually write all of the substance for all of his press 22 releases or did he rely upon the subject matter experts 23 within the office to assist him with content? 24 A. Well, in this case it would have been a different 25 press person. In '07, again, it would be typical to</p>	<p style="text-align: center;">167</p> <p>1 license or some other common form of ID at the election 2 polls to prove who they say they are, US citizens. Do 3 you see that sentence? 4 A. I do see that sentence. 5 Q. Can you explain how HB 218 would ensure that 6 people prove they are US citizens at the polls? 7 MR. SWEETEN: Don't reveal your thoughts, 8 your mental impressions, about legislation or in 9 furtherance of the legislative process including Senate 10 Bill 14. Do not reveal conversations you had with 11 Lieutenant Governor Dewhurst. Do not reveal 12 conversations you've had with legislators, legislative 13 staff, state agencies, or Texas Legislative Council. 14 A. Right. Just looking, again, at the face of the 15 bill and as we discussed earlier, I think the intent is 16 to ensure that eligible voters vote and you have to be a 17 US citizen to vote and so I assume that's what this 18 sentence is getting at. 19 Q. (By MS. WESTFALL) I believe you testified 20 earlier that you were not certain of whether the forms 21 of photo ID required by HB 218, in fact, proved that the 22 voter was a citizen; is that right? 23 A. That's what I said, yeah. 24 Q. So is there any way that you can reconcile your 25 understanding of what the forms of photo ID require and</p>
<p style="text-align: center;">166</p> <p>1 have a draft to the extent there were things like 2 statics or procedural history, those things would have 3 been run by a staff person. But it's also not uncommon 4 for Lieutenant Governor to write his own opinions and 5 then have those crafted into a press release format. 6 Q. Do you think in this instance Lieutenant Governor 7 wrote this letter himself because you handled photo ID 8 and you don't recall having drafted this? 9 MR. SWEETEN: Objection, calls for 10 speculation. 11 A. Again, I would never have -- I think it's safe to 12 say that I would never have drafted a press release. 13 I'm not sure if this is a press release or something he 14 sent directly to the Senate or something else. It's 15 addressed to Senate colleagues and it's signed David 16 Dewhurst. That would be an unusual format for a press 17 release I would think. 18 Q. (By MS. WESTFALL) Do you think that was a leaked 19 letter that Mr. Dewhurst wrote? 20 MR. SWEETEN: Objection, calls for 21 speculation. He's already said he doesn't know. 22 Q. (By MS. WESTFALL) Can you see that in the draft 23 letter referred to that was later corrected that's 24 referred to on Page 1, that it says in the second 25 paragraph, HB 218 requires voters to present a driver's</p>	<p style="text-align: center;">168</p> <p>1 show and prove, versus what you just testified your 2 belief is in terms of the purpose and effect of House 3 Bill 218? 4 MR. SWEETEN: Objection to the question as 5 vague. Objection also to the extent that the question 6 requires or asks you to reveal your thoughts, mental 7 impressions, or opinions about legislation. Okay. 8 Don't reveal communications that you've had with respect 9 to the issue. If you can answer it without doing -- 10 without providing matters that are subject to 11 legislative privilege or to the attorney/client 12 privilege, then you can do so. 13 A. I would just say that, I mean, I think this bill 14 would make it more likely that eligible voters only are 15 voting and citizens are the only eligible voters, then 16 it would have -- it would be reflected in what this 17 letter says. 18 Q. (By MS. WESTFALL) And what I'm trying to 19 understand is, can you explain further how you believe 20 HB 218 would further that purpose? 21 MR. SWEETEN: Same objection. Same 22 instructions. 23 A. By requiring additional forms of identification, 24 you are attempting to ensure and, again, not system is 25 perfect. You are attempting to insure that only</p>

<p style="text-align: center;">169</p> <p>1 eligible voters can vote. And I think the more -- in my  2 opinion, the more secure you try to make these  3 elections, the less tempted someone who wants to  4 fraudulently vote is -- the less tempted they are to  5 vote or the less able they are to vote.  6 Q. But you nevertheless testified earlier that a  7 person's citizenship status is determined at the voter  8 registration stage; is that correct?  9 MR. SWEETEN: You can testify about matters  10 of fact, she asked you that earlier. You do not testify  11 about your mental impressions, communications that you  12 had, or thoughts and impressions about a specific piece  13 of legislation. That is legislatively privileged. So  14 I'm going to instruct you accordingly. You can answer  15 to the extent you are not revealing matters of  16 privilege.  17 A. I also think it's useful to point out that it not  18 just be noncitizens who would be presumably prohibited  19 from voting. It would be anyone trying to  20 fraudulently -- me trying to vote in a different county,  21 me trying to vote in an election in which I'm not  22 eligible to participate. So I think the idea here, and  23 my opinion here is, you are putting up some standards  24 and if a fraudulent person wants to try to vote  25 fraudulently, they are going to have to get through</p>	<p style="text-align: center;">171</p> <p>1 BY MS. WESTFALL:  2 Q. So would HB 218 prevent the following scenario:  3 Noncitizen lies on voter registration application,  4 county official adds that person to the rolls. That  5 person has a driver's license or another form of photo  6 ID that does not indicate citizenship. That person goes  7 to the polls, presents the photo ID and votes a regular  8 ballot. Would HB 218 stop that?  9 MR. SWEETEN: Again --  10 Q. (By MS. WESTFALL) On the basis of the public  11 record, the face of the statute?  12 MR. SWEETEN: Okay. You can answer with  13 that qualification.  14 A. Based on this statute, someone who committed, I  15 think those two or three levels of fraud, potentially  16 could vote and again I think that is a much smaller  17 class of potential fraud than the existing system which  18 is you just have to do first thing, get your card and  19 show up and vote.  20 Q. (By MS. WESTFALL) Does HB 218 solely stop  21 in-person voter impersonation?  22 MR. SWEETEN: When you're answering this  23 question don't --  24 Q. (By MS. WESTFALL) Based on the face of the  25 statute?</p>
<p style="text-align: center;">170</p> <p>1 several hurdles or, you know, yes, you have to check a  2 box saying that you're a citizen and then turn that into  3 your County.  4 As the current law stands, that would be enough  5 for you to vote fraudulently. If you put in Mickey  6 Mouse, and this was an example, I think, if you wrote  7 Mickey Mouse, yes, I'm a citizen and you get that ID  8 card, that voter registration card, you could vote.  9 This would require you also to get some sort of photo ID  10 with Mickey Mouse on it, which is, again, not a fool  11 proof system and does not prevent every ineligible voter  12 from voting, but I think it raises the bar somewhat of  13 the security of the election.  14 Q. (By MS. WESTFALL) Well, likewise, a voter  15 registration card that has the individuals name and  16 address indicating he or she is a voter, also  17 indicates -- proves identity under the current system;  18 isn't that correct?  19 MR. SWEETEN: Are you asking about current  20 law?  21 MS. WESTFALL: Yes, I'm asking about current  22 law. Do you understand the question.  23 A. Yes. A voter registration card is a form of  24 identity under the current system and then this bill  25 apparently thinks that's not secure enough.</p>	<p style="text-align: center;">172</p> <p>1 MR. SWEETEN: You can answer based on the  2 face of the statute.  3 A. I think no bill, including this statute, is able  4 to stop every type of fraud in every type of  5 circumstance.  6 Q. (By MS. WESTFALL) So in answer to my question  7 yes, it is solely designed to stop in-person  8 impersonation?  9 MR. SWEETEN: Objection, misstates his  10 testimony.  11 A. Yeah. And I think potentially there are other, y  12 ou know, intents here. I'm just not aware. I mean, you  13 could argue that this decreases the incidents of  14 fraudulent voter registration. If people know that they  15 will now have to show an ID when they show up to vote,  16 they may never bother to file a fake registration card  17 in the first place. So the side effect of this could be  18 fewer fraudulent registrations in addition to fewer  19 fraudulent in-person attempts to vote.  20 Q. (By MS. WESTFALL) Do you think it would deter  21 fraudulent registration even though the IDs, the photo  22 IDs, required in HB 218 do not require a person to be a  23 US citizen to obtain those IDs; is that your testimony?  24 MR. SWEETEN: Don't reveal your thoughts--  25 MS. WESTFALL: Based on the face of the</p>

<p style="text-align: center;">173</p> <p>1 statute --</p> <p>2 MR. SWEETEN: -- without legislation.</p> <p>3 A. Based on this bill, I don't -- I could read it</p> <p>4 more closely. I don't get the intent that it's</p> <p>5 noncitizens that the bill is worried about. They're</p> <p>6 worried about in eligible voters which may be US</p> <p>7 citizens or Texas citizens, but still in eligible to</p> <p>8 vote. I could request a, you know, registration for my</p> <p>9 roommate. We may both be citizens, I still can't go</p> <p>10 vote in his name.</p> <p>11 Q. (By MS. WESTFALL) Isn't eligibility to vote</p> <p>12 determined at the voter registration stage and not at</p> <p>13 the point of presenting yourself to vote on election</p> <p>14 day?</p> <p>15 MR. SWEETEN: You're saying under current</p> <p>16 law?</p> <p>17 MS. WESTFALL: Under current law.</p> <p>18 MR. SWEETEN: You can answer.</p> <p>19 A. The eligibility question is, yes, do I have</p> <p>20 sufficient -- I still have to when I show up to vote</p> <p>21 either show the required proof of registration or some</p> <p>22 other form of identification, answer whether I'm still</p> <p>23 living at the same address. I mean, there's still some</p> <p>24 interaction with the poll worker there.</p> <p>25 Q. That is --</p>	<p style="text-align: center;">175</p> <p>1 that right?</p> <p>2 MR. SWEETEN: Are you asking about the face</p> <p>3 of the statute?</p> <p>4 MS. WESTFALL: I'm asking about the face of</p> <p>5 the statute.</p> <p>6 MR. SWEETEN: Okay.</p> <p>7 A. The bill on its face requires a voter to prevent</p> <p>8 certain forms -- one of certain forms of acceptable ID.</p> <p>9 BY MS. WESTFALL:</p> <p>10 Q. And HB 218 does not govern or change current law</p> <p>11 pertaining to how a voter registers to vote; is that</p> <p>12 correct?</p> <p>13 A. Give me a second to double-check.</p> <p>14 MR. SWEETEN: You can answer based upon the</p> <p>15 statute, the face of the statute.</p> <p>16 A. In the provisions that state what happens if a</p> <p>17 voter only has a registration certificate, but in terms</p> <p>18 of actually getting a voter on the rolls and becoming a</p> <p>19 registered voter, apparently no.</p> <p>20 Q. (By MS. WESTFALL) Thank you.</p> <p>21 MR. SWEETEN: Okay. We're going to take a</p> <p>22 quick break. I don't mean a big long.</p> <p>23 MS. WESTFALL: Sure.</p> <p>24 (Brief recess.)</p> <p>25 BY MS. WESTFALL:</p>
<p style="text-align: center;">174</p> <p>1 MR. SWEETEN: We're going to take a break</p> <p>2 after this question, but go ahead.</p> <p>3 Q. (By MS. WESTFALL) What you just testified about,</p> <p>4 is it not, is proving who you say you are at the polls</p> <p>5 on election day; is that correct?</p> <p>6 A. I'm sorry.</p> <p>7 Q. Proving your identity on election day, those are</p> <p>8 the --</p> <p>9 MR. SWEETEN: Objection.</p> <p>10 Q. (By MS. WESTFALL) That's the scope of the issue</p> <p>11 that you just defined?</p> <p>12 MR. SWEETEN: Objection to the question as</p> <p>13 vague.</p> <p>14 A. I'm not clear what you're asking. I'm sorry.</p> <p>15 Q. (By MS. WESTFALL) Is there a difference between</p> <p>16 voter registration and proving your identity at the</p> <p>17 polls on election day?</p> <p>18 MR. SWEETEN: When you're answering that</p> <p>19 question, don't reveal matters of legislative privilege.</p> <p>20 MS. WESTFALL: Based on current law. Based</p> <p>21 on the current face of the statute.</p> <p>22 A. Under current law those are different processes.</p> <p>23 BY MS. WESTFALL:</p> <p>24 Q. And HB 218 is designed to -- or it does require</p> <p>25 proof of identification at the polls on election day; is</p>	<p style="text-align: center;">176</p> <p>1 Q. We're back on the record.</p> <p>2 Turning your attention back to Exhibit 3, are you</p> <p>3 aware that a corrected letter was released after initial</p> <p>4 letter was released referred to in Exhibit 3?</p> <p>5 A. Yes.</p> <p>6 Q. How soon was it released?</p> <p>7 A. I don't know.</p> <p>8 Q. Do you know why it was released?</p> <p>9 A. No.</p> <p>10 Q. Do you know changes that were made to the letter</p> <p>11 between the draft that was released and the corrected</p> <p>12 draft?</p> <p>13 A. I don't recall.</p> <p>14 Q. Did the Lieutenant Governor at some point come to</p> <p>15 the conclusion that photo ID would not prevent</p> <p>16 noncitizen voting?</p> <p>17 MR. SWEETEN: Don't answer the question as</p> <p>18 phrased. It would require you to reveal matters that</p> <p>19 are subject to the legislative privilege and potentially</p> <p>20 attorney/client privilege.</p> <p>21 Q. (By MS. WESTFALL) You going to follow your</p> <p>22 counsel's instruction?</p> <p>23 A. Yes.</p> <p>24 Q. Are you aware of any discussions about noncitizen</p> <p>25 voting that occurred in 2007 involving your office?</p>

<p style="text-align: center;">177</p> <p>1 MR. SWEETEN: You can answer whether or not</p> <p>2 there was a discussion.</p> <p>3 A. 2007 session were noncitizens ever discussed in</p> <p>4 the context of voter ID?</p> <p>5 Q. (By MS. WESTFALL) Correct.</p> <p>6 A. I'm not sure.</p> <p>7 Q. Is there a connection between the photo ID bill</p> <p>8 HB 218, and the growth of noncitizen population in</p> <p>9 Texas?</p> <p>10 MR. SWEETEN: Don't answer the question. It</p> <p>11 calls for matters that are subject to the legislative</p> <p>12 privilege.</p> <p>13 Q. (By MS. WESTFALL) Are you going to follow your</p> <p>14 counsel's instruction?</p> <p>15 A. Yes.</p> <p>16 Q. Have you ever heard of such an assertion before?</p> <p>17 A. Heard an assertion that voter ID is tied to</p> <p>18 growth, I don't guess I have, no.</p> <p>19 MR. SWEETEN: And when you're answering --</p> <p>20 Q. (By MS. WESTFALL) Did you say you have not?</p> <p>21 MR. SWEETEN: He said he has not. But just</p> <p>22 so you're clear, don't reveal communications that are</p> <p>23 nonpublic. You can reveal a matter of a public</p> <p>24 communication, but I think your answer is no.</p> <p>25 Q. (By MS. WESTFALL) Are you aware of any public</p>	<p style="text-align: center;">179</p> <p>1 A. I cannot remember specific references.</p> <p>2 Q. (By MS. WESTFALL) Can you remember any</p> <p>3 references?</p> <p>4 MR. SWEETEN: Same instruction.</p> <p>5 A. Right. I mean, again, I think to the extent I'm</p> <p>6 aware of noncitizens it was in the context of a</p> <p>7 discussion about ineligible voters and noncitizens would</p> <p>8 be part of a class of eligible voters.</p> <p>9 Q. (By MS. WESTFALL) And beyond the testimony that</p> <p>10 you gave earlier today, is there anything in addition</p> <p>11 that you remember on that topic in terms of</p> <p>12 conversations?</p> <p>13 MR. SWEETEN: Don't reveal communication</p> <p>14 that you've had with legislatures, legislative staff,</p> <p>15 Lieutenant Governor, State agencies, Texas Legislative</p> <p>16 Council.</p> <p>17 A. No.</p> <p>18 Q. (By MS. WESTFALL) Are you familiar with the</p> <p>19 Crawford supreme court decision?</p> <p>20 A. Yes.</p> <p>21 Q. Did you read it when it was issued in 2008?</p> <p>22 A. Almost certainly.</p> <p>23 Q. Did you at that time believe that it impacted the</p> <p>24 ability of States to craft photo ID laws?</p> <p>25 MR. SWEETEN: Don't provide your mental</p>
<p style="text-align: center;">178</p> <p>1 statements about tying photo ID to noncitizen voting?</p> <p>2 MR. SWEETEN: You can answer.</p> <p>3 A. No. I think that's the same question I was</p> <p>4 answering before.</p> <p>5 Q. (By MS. WESTFALL) Have you heard anyone in</p> <p>6 either the Governor's office or the Lieutenant</p> <p>7 Governor's office make any statement connecting photo ID</p> <p>8 with noncitizen voting?</p> <p>9 MR. SWEETEN: Has you ever heard -- can you</p> <p>10 restate that again because I don't know if we're talking</p> <p>11 about a public statement as phrased or if you're talking</p> <p>12 about communications.</p> <p>13 (Requested question was read.)</p> <p>14 MR. SWEETEN: Don't reveal communications</p> <p>15 you've had with members of the Lieutenant Governor's</p> <p>16 staff. Those would be attorney/client privileged.</p> <p>17 Don't reveal matters of legislative privilege to the</p> <p>18 extent that you can answer based upon the public record</p> <p>19 or public statement, you can go ahead and do so.</p> <p>20 A. So did anyone in the Governor's or Lieutenant</p> <p>21 Governor's office publicly or privately mention</p> <p>22 noncitizens and photo ID; is that the question?</p> <p>23 Q. (By MS. WESTFALL) Yes.</p> <p>24 MR. SWEETEN: And my instruction is don't</p> <p>25 reveal any nonpublic statements with respect to that.</p>	<p style="text-align: center;">180</p> <p>1 impressions at the time. Those are matters of</p> <p>2 legislative privilege. You don't have to reveal those.</p> <p>3 Q. (By MS. WESTFALL) Can you answer or can you not</p> <p>4 answer?</p> <p>5 MR. SWEETEN: My instruction about</p> <p>6 legislative privilege applies.</p> <p>7 A. Yeah. I think, I don't have an answer based on</p> <p>8 privilege.</p> <p>9 Q. (By MS. WESTFALL) Did you believe that the</p> <p>10 Crawford decision impacted the ability of states covered</p> <p>11 by Section 5 of the Voting Rights Act to obtain</p> <p>12 preclearance under Section 5?</p> <p>13 MR. SWEETEN: Don't answer the question.</p> <p>14 That requires you to reveal matters that are subject to</p> <p>15 the legislative privilege.</p> <p>16 MS. WESTFALL: Are you instructing him not</p> <p>17 to answer at all.</p> <p>18 MR. SWEETEN: I am. Unless, except to the</p> <p>19 extent that you can refer to matters of the public</p> <p>20 record.</p> <p>21 BY MS. WESTFALL:</p> <p>22 Q. Are you following your counsel's advice?</p> <p>23 A. Yes.</p> <p>24 Q. Are you aware of any communications between the</p> <p>25 Lieutenant Governor's office and officials in Indiana</p>

<p style="text-align: center;">181</p> <p>1 regarding this photo ID law?</p> <p>2 MR. SWEETEN: You can answer whether or not</p> <p>3 you're aware of communication.</p> <p>4 A. Between Lieutenant Governor's office and Indiana,</p> <p>5 I believe that in the '09 and '11 sessions public</p> <p>6 testimony was given by representatives from Indiana.</p> <p>7 Q. (By MS. WESTFALL) And is that -- are those the</p> <p>8 only communications you can testify about today?</p> <p>9 A. Yes.</p> <p>10 Q. Are you asserting privilege over other</p> <p>11 communications that you had with -- you're aware of</p> <p>12 between Lieutenant Governor's office and Indiana</p> <p>13 election officials?</p> <p>14 A. Yes.</p> <p>15 Q. Are you aware of any communications between</p> <p>16 Lieutenant Governor's office and Indiana officials</p> <p>17 regarding the Crawford decision?</p> <p>18 A. No.</p> <p>19 Q. Are you aware of any written communications</p> <p>20 between the Lieutenant Governor's office and Indiana</p> <p>21 officials regarding its photo ID law or the Crawford</p> <p>22 decision?</p> <p>23 MR. SWEETEN: You can answer if you're aware</p> <p>24 of such communications.</p> <p>25 A. I believe, yes.</p>	<p style="text-align: center;">183</p> <p>1 person that was communicating.</p> <p>2 A. My memory is that it would have been Senator</p> <p>3 Fraser and his staff arranging for witnesses for their</p> <p>4 bill.</p> <p>5 Q. (By MS. WESTFALL) Are you aware of any other</p> <p>6 such communications with Indiana officials?</p> <p>7 A. No.</p> <p>8 Q. Are you aware of any communications between the</p> <p>9 Lieutenant Governor's office and the officials in</p> <p>10 Indiana regarding the burden imposed upon Indiana voters</p> <p>11 by the photo ID law?</p> <p>12 MR. SWEETEN: Objection. You're asking the</p> <p>13 substance of the communication. If you want to ask</p> <p>14 about whether communications occurred that's fine, but</p> <p>15 this is loaded with information about what the</p> <p>16 conversations pertained to, so I'm going to instruct you</p> <p>17 as phrased not to answer the question.</p> <p>18 Q. (By MS. WESTFALL) Are you following the advice</p> <p>19 of council.</p> <p>20 A. Yes.</p> <p>21 Q. Was a photo ID bill filed in the Senate in 2009?</p> <p>22 MR. SWEETEN: You can answer.</p> <p>23 A. Yes.</p> <p>24 MS. WESTFALL: Mr. Sweeten, are you going to</p> <p>25 be instructing him yes, no, yes, no for every question</p>
<p style="text-align: center;">182</p> <p>1 Q. (By MS. WESTFALL) What communication are you</p> <p>2 aware of?</p> <p>3 MR. SWEETEN: Don't reveal the substance of</p> <p>4 the communication.</p> <p>5 Q. (By MS. WESTFALL) When did it occur?</p> <p>6 MR. SWEETEN: You can answer.</p> <p>7 A. I think it would have been just prior to their</p> <p>8 public testimony.</p> <p>9 Q. (By MS. WESTFALL) Who was the communication</p> <p>10 between?</p> <p>11 MR. SWEETEN: You can answer.</p> <p>12 A. Again, I think -- I think it would have been</p> <p>13 between the person who went up to publically testify in</p> <p>14 each case.</p> <p>15 Q. (By MS. WESTFALL) How do you know about this</p> <p>16 communication?</p> <p>17 A. My memory is that I was included on</p> <p>18 correspondence leading up to that testimony.</p> <p>19 Q. And so this correspondence that you were copied</p> <p>20 on involving Indiana officials before the testimony on</p> <p>21 the 2009 bill?</p> <p>22 A. I think that's right. Yes.</p> <p>23 Q. Who in the legislature was communicating with the</p> <p>24 Indiana officials?</p> <p>25 MR. SWEETEN: You can answer if you know the</p>	<p style="text-align: center;">184</p> <p>1 moving forward? Is that how it's going to go? Does he</p> <p>2 need that level of advice because it's going to burn up</p> <p>3 a lot of time and kind of interrupt the flow.</p> <p>4 MR. SWEETEN: Well, I'm not trying to</p> <p>5 interrupt the flow. I'm trying to be clear on --</p> <p>6 because we're asserting privilege on many of these</p> <p>7 questions that you know that I have been asserting</p> <p>8 privilege to and you keep bringing up. So I will try to</p> <p>9 rein that in, but I want to make it clear that you keep</p> <p>10 treading into areas that you well know that I've been</p> <p>11 asserting privilege on. And so to the extent you keep</p> <p>12 doing that, I'm going to have to continue to impose this</p> <p>13 objection. But with that, you can go ahead and answer.</p> <p>14 BY MS. WESTFALL:</p> <p>15 Q. So, yes, a photo ID bill was filed in the Senate</p> <p>16 in 2009?</p> <p>17 A. I believe, yes.</p> <p>18 Q. Do you recall the number?</p> <p>19 A. No.</p> <p>20 Q. Could you mark this US 29?</p> <p>21 (Exhibit No. 29 was marked.)</p> <p>22 Q. (By MS. WESTFALL) You've been handed what's been</p> <p>23 previously marked as US 29, do you recognize this</p> <p>24 document?</p> <p>25 A. It's Senate Bill 362 from the 2009 session.</p>

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1 Q. Who authored this bill?

2 A. Senators Fraser, Estes, Nelson, and Nichols.

3 Q. Could you please review this bill, particularly

4 the forms of allowable ID and let me know when you've

5 had a chance to do so.

6 A. Okay.

7 Q. What forms of ID are allowable under Senate Bill

8 362.

9 MR. SWEETEN: You're asking on the Texas

10 statute.

11 MS. WESTFALL: On the Texas statute.

12 MR. SWEETEN: I'll let you answer.

13 A. On Section 630101 it lists a driver's license or

14 ID card issued by DPS, military ID citizenship

15 certificate with a photograph, passport, concealed

16 handgun license, photo ID issued by the federal

17 government or a State entity. And then there's a list

18 of non-photo IDs.

19 BY MS. WESTFALL:

20 Q. Can you compare Senate Bill 362 with House Bill

21 218 and let me know whether there are changes in the

22 forms of allowable ID based on the Texas bill?

23 MR. SWEETEN: That's fine. I'm going to

24 allow him to compare the text of the bill, but as far as

25 whys or mental impressions about those differences, he

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1 won't answer those questions. As those matters are

2 legislatively privileged.

3 A. It looks like 362 does not include employee

4 identification card as a photo?

5 Q. (By MS. WESTFALL) Yes. Anything else?

6 A. I'm looking. Looks like they're otherwise the

7 same.

8 Q. Do you recall earlier you testified that student

9 IDs were included in HB 218; is that right?

10 A. Yes.

11 Q. Does it appear that they -- in Senate Bill 362

12 they are not expressly provided for?

13 A. I do not see it on the list.

14 Q. Would you construe valid ID cards issued by

15 agency institution or local subdivision of the State,

16 any of the that language to include State college and

17 university issued IDs or no?

18 A. In looking at the face of the bill, an agency

19 institution or subdivision of the state, arguably could

20 include state universities.

21 Q. I believe you testified that Senate Bill 326 also

22 includes the use of two forms of non-photo ID; is this

23 right?

24 A. Yes. Subsection B.

25 Q. Was photo ID a part of the Lieutenant Governor's

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1 legislative agenda for 2009?

2 MR. SWEETEN: You can reveal matters that

3 are public or on the public record as to his legislative

4 agenda. Don't reveal conversations you've had with the

5 other enumerated individuals or entities we talked

6 about.

7 A. I don't recall if it was part of some sort of

8 public pronouncement of his priorities.

9 Q. (By MS. WESTFALL) And you handled his State

10 Affairs Committee issues in 2009; is that correct?

11 A. Correct.

12 Q. And you testified earlier that subject matter

13 experts within the office who handled issues would

14 contribute to the Lieutenant Governor's agenda; did you

15 not?

16 A. Yes. We would be asked are those some of the

17 things that we should be talking about this session.

18 Q. Do you recall having recommended or -- strike

19 that.

20 Do you recall any conversations about inclusion

21 of photo ID in the Lieutenant Governor's agenda for

22 2009?

23 MR. SWEETEN: Don't reveal any conversations

24 that you had with the Lieutenant Governor or the

25 legislatures.

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1 A. I don't recall.

2 Q. (By MS. WESTFALL) Are you -- is this based on --

3 in part on advice of council?

4 A. Yes.

5 Q. Were you or anyone in the Lieutenant Governor's

6 office involved in the development or drafting of Senate

7 Bill 362?

8 MR. SWEETEN: Objection. The question is

9 vague. As you're answering the question be mindful that

10 the legislative privilege prohibits you -- or the scope

11 of the privilege does not require you to reveal

12 thoughts, mental impressions, about a bill or

13 conversations you had with respect to that. So you can

14 answer the question to the extent you're not revealing

15 matters of legislative privilege.

16 A. So the question was, was the Lieutenant

17 Governor's staff involved in the drafting of Senate Bill

18 326.

19 Q. (By MS. WESTFALL) Or the development?

20 MR. SWEETEN: Objection compound. Same

21 instruction.

22 A. Yes.

23 Q. (By MS. WESTFALL) Who was involved in the

24 development or drafting of Senate Bill 362?

25 MR. SWEETEN: Objection, compound.



<p style="text-align: center;">189</p> <p>1 A. Myself.</p> <p>2 Q. (By MS. WESTFALL) Can you think of anyone else</p> <p>3 or was it solely you?</p> <p>4 A. I'm the only one I know for sure. Me is the only</p> <p>5 answer I can say yes. It's possible other people were.</p> <p>6 Q. Can you identify the time -- strike that.</p> <p>7 Was there -- were there any conversations about</p> <p>8 the development or drafting of the Senate Bill 362?</p> <p>9 MR. SWEETEN: Objection, compound. You can</p> <p>10 answer whether or not a communication -- such</p> <p>11 communication occurred. Do not reveal the substance of</p> <p>12 any communications.</p> <p>13 A. Yes.</p> <p>14 Q. (By MS. WESTFALL) When did the first</p> <p>15 conversation occur?</p> <p>16 A. I don't recall the first conversation.</p> <p>17 Q. Did it occur sometime shortly after House Bill</p> <p>18 218 failed to pass?</p> <p>19 A. I don't recall.</p> <p>20 Q. Who else was involved in that conversation?</p> <p>21 MR. SWEETEN: You can answer.</p> <p>22 A. I'm sure I would have talked about this generally</p> <p>23 with our policy director and chief of staff so Julia</p> <p>24 Rathgeber, Blaine Brunson.</p> <p>25 Q. (By MS. WESTFALL) Do you recall what year it</p>	<p style="text-align: center;">191</p> <p>1 involved at some point, in some draft or amendment, but</p> <p>2 I'm not sure.</p> <p>3 Q. Was Senator Fraser's staff involved in the</p> <p>4 drafting of Senate Bill 362?</p> <p>5 A. Yes.</p> <p>6 MR. SWEETEN: Objection, vague.</p> <p>7 Q. (By MS. WESTFALL) Was that Janice McCoy?</p> <p>8 A. Yes.</p> <p>9 Q. Were any other staff or Senators involved in the</p> <p>10 drafting of Senate Bill 362?</p> <p>11 MR. SWEETEN: You can answer if they were</p> <p>12 involved in the drafting. Don't reveal the specific</p> <p>13 communications you had.</p> <p>14 A. It could be that possibly Ginger Fagan is a</p> <p>15 lawyer I trust, but is also someone from the State</p> <p>16 Affairs Committee.</p> <p>17 Q. Anyone else?</p> <p>18 A. I can't recall names. Again, I'm sure I</p> <p>19 discussed this with lots of people around the capital,</p> <p>20 but I don't have a list.</p> <p>21 Q. Senator --</p> <p>22 A. Sorry. If your question is development of the</p> <p>23 draft, I think that's probably the list.</p> <p>24 Q. Thank you for your testimony.</p> <p>25 Senator Fraser testified that in essence, he</p>
<p style="text-align: center;">190</p> <p>1 occurred in?</p> <p>2 A. It was supposed to be '09 session it probably</p> <p>3 would have been '08.</p> <p>4 Q. Do you think it was in the second half of the</p> <p>5 year?</p> <p>6 A. I don't recall. I can't remember. There may</p> <p>7 have been an interim charge in the '07, '08 year that</p> <p>8 addressed these issues that may have come up in that</p> <p>9 context.</p> <p>10 Q. Were you primarily responsible for developing</p> <p>11 Senate bill 362?</p> <p>12 MR. SWEETEN: In answering that question</p> <p>13 don't reveal your thoughts, mental processes, your</p> <p>14 conversations that you've had with individuals in</p> <p>15 answering that question. I'm also going to object to</p> <p>16 the question as vague.</p> <p>17 A. No. I was not primarily responsible for</p> <p>18 developing the draft the bill.</p> <p>19 Q. (By MS. WESTFALL) Was the Legislative Council</p> <p>20 also involved in drafting the bill?</p> <p>21 A. I don't recall. Usually there would be a number</p> <p>22 or letter at the bottom here if it was a formal</p> <p>23 council -- was it a council draft. I don't know what</p> <p>24 version this was. It could be that -- I'm almost</p> <p>25 certain that Legislative Council would have been</p>	<p style="text-align: center;">192</p> <p>1 testified in a deposition in this case. In essence he</p> <p>2 took House Bill 218 and filed it in the following</p> <p>3 session more or less the same. Do you agree with that</p> <p>4 assessment?</p> <p>5 A. Do I agree that 218 is essentially the same as</p> <p>6 Senate Bill -- House Bill 218 is the same as Senate Bill</p> <p>7 362?</p> <p>8 Q. Yes, that's part of the question. Based on the</p> <p>9 face of the statute?</p> <p>10 MR. SWEETEN: You can answers.</p> <p>11 A. Looking at them now there are some similarities.</p> <p>12 And it looks like, I mean, starting with the very first</p> <p>13 page there are also some differences. I mean, but</p> <p>14 they're substantially similar I suppose. They're both</p> <p>15 proof of identification.</p> <p>16 Q. And is it true that Senator Fraser was the one</p> <p>17 who re-crafted the bill or would you say that you played</p> <p>18 more of a role?</p> <p>19 MR. SWEETEN: Objection to the term</p> <p>20 re-crafted, vague. Are you talking about the text --</p> <p>21 who filed the -- I mean, you can answer as to that if</p> <p>22 you know.</p> <p>23 A. I cannot recall how much specific input I had on</p> <p>24 this draft of this bill.</p> <p>25 Q. (By MS. WESTFALL) On this bill?</p>

<p style="text-align: center;">193</p> <p>1 A. Correct.</p> <p>2 Q. 362? But it essentially was developed and</p> <p>3 created by yourself, Ms. McCoy, and Ms. Fagan; is that</p> <p>4 correct?</p> <p>5 A. I think I would say it was developed.</p> <p>6 MR. SWEETEN: Hold on a minute. The term</p> <p>7 developed -- do not answer a question as to the mental</p> <p>8 impression, thoughts that occurred with respect to the</p> <p>9 legislative the conversations that you've had with these</p> <p>10 individuals. So to the extent that she's asking you</p> <p>11 whether conversations occurred you can answer. To the</p> <p>12 extent she's asking about whether someone did a draft</p> <p>13 you can answer, but don't talk about the matters that be</p> <p>14 covered by legislative privilege.</p> <p>15 Q. (By MS. WESTFALL) Can you answer my question?</p> <p>16 A. I'll exercise my privilege.</p> <p>17 Q. Other than House Bill 218, are you aware of any</p> <p>18 other sources of legislative language or -- I guess</p> <p>19 legislative language that provided the basis of Senate</p> <p>20 Bill 362?</p> <p>21 MR. SWEETEN: In answering the question</p> <p>22 don't reveal thoughts, mental impressions, or opinions</p> <p>23 about legislation or furtherance of the legislative</p> <p>24 process. You can answer to the extent that you can do</p> <p>25 so without revealing.</p>	<p style="text-align: center;">195</p> <p>1 A. I don't recall.</p> <p>2 Q. Would anyone else know the answer to that</p> <p>3 question?</p> <p>4 MR. SWEETEN: Objection, calls for</p> <p>5 speculation.</p> <p>6 Q. (By MS. WESTFALL) You may answer it?</p> <p>7 A. As I said before, the chief of staff and the</p> <p>8 policy director would possibly have had -- I didn't have</p> <p>9 that conversation.</p> <p>10 Q. And Mr. Dewhurst himself would certainly know</p> <p>11 whether he was involved in those conversations, would he</p> <p>12 not?</p> <p>13 A. I don't know. I guess.</p> <p>14 Q. Are you aware of any conversations concerning the</p> <p>15 analysis of the impact of Senate bill 362 on minority</p> <p>16 voters?</p> <p>17 MR. SWEETEN: Don't answer the question.</p> <p>18 The question -- the preface of the question asks for the</p> <p>19 particular subject matter. So as phrased I'm going to</p> <p>20 object that it calls for matters that are subject to</p> <p>21 legislative privilege and instruct not to answer.</p> <p>22 Q. (By MS. WESTFALL) Are you going to follow the</p> <p>23 advice of council?</p> <p>24 A. Yes.</p> <p>25 Q. If Senate Bill 362 had been passed, which it</p>
<p style="text-align: center;">194</p> <p>1 A. I don't recall and/or don't know the source of</p> <p>2 all the language in 362.</p> <p>3 Q. (By MS. WESTFALL) Are you aware of any</p> <p>4 conversations concerning any other additional forms of</p> <p>5 ID that were contemplated with regard to Senate Bill</p> <p>6 362?</p> <p>7 MR. SWEETEN: You can answer whether or not</p> <p>8 a communication occurred.</p> <p>9 A. Yes, communications occurred about forms of ID.</p> <p>10 Q. (By MS. WESTFALL) How many such conversations</p> <p>11 occurred?</p> <p>12 MR. SWEETEN: You can answer.</p> <p>13 A. I think it was an ongoing part of the bill.</p> <p>14 Several.</p> <p>15 Q. (By MS. WESTFALL) Were they between you and</p> <p>16 Ms. Fagan and Ms. McCoy?</p> <p>17 A. Probably.</p> <p>18 Q. Are you aware of any conversations involving</p> <p>19 Mr. Dewhurst on that topic?</p> <p>20 MR. SWEETEN: You can reveal whether a</p> <p>21 conversation occurred. Don't reveal the substance of</p> <p>22 the conversation.</p> <p>23 A. So 2009 was Governor Dewhurst involved in any</p> <p>24 discussions about the forms of identification?</p> <p>25 Q. (By MS. WESTFALL) Correct.</p>	<p style="text-align: center;">196</p> <p>1 wasn't, correct?</p> <p>2 A. Correct.</p> <p>3 Q. It would have been subject to the requirements of</p> <p>4 Section 5, right?</p> <p>5 A. Correct.</p> <p>6 Q. Are you aware of any conversations involving</p> <p>7 staff being directed not to conduct analysis of the</p> <p>8 impact of Senate Bill 362 on minority voters?</p> <p>9 MR. SWEETEN: Don't answer the question.</p> <p>10 The question assumes the subject matter and it's calling</p> <p>11 for matters that are subject to the legislative</p> <p>12 privilege. You can reveal if you had conversations</p> <p>13 about general subject matter and with whom the</p> <p>14 conversations occurred and approximately when and the</p> <p>15 means.</p> <p>16 Q. (By MS. WESTFALL) Do you have any testimony?</p> <p>17 MR. SWEETEN: But as phrased she's asking</p> <p>18 for the subject matter of the conversations, so my</p> <p>19 instruction would be not to answer the question as</p> <p>20 phrased.</p> <p>21 Q. (By MS. WESTFALL) Based on advice of council --</p> <p>22 A. Correct.</p> <p>23 Q. -- you are asserting your privilege?</p> <p>24 Okay. Are you familiar with the concept of</p> <p>25 Spanish surname voter registration?</p>

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1 MR. SWEETEN: If answering the question  
2 would require you to reveal your thoughts, mental  
3 impressions, opinions, about legislation or discussions  
4 you've had about legislation, the legislators, Governor  
5 Dewhurst, with other members of the Lieutenant  
6 Governor's office, legislative staff, State agencies or  
7 Texas Legislative Council. Do not reveal those as those  
8 are legislatively privileged.

9 A. I'm just generally aware of it from redistricting  
10 conversations and other matters.

11 Q. (By MS. WESTFALL) Did you hear about any  
12 conversations related to an analysis of whether Spanish  
13 surname voter registrations were more or less likely to  
14 have the necessary photo ID under Senate Bill 362?

15 MR. SWEETEN: Don't answer the question. It  
16 calls for matters that are subject to legislative  
17 privilege. If Council wants to rephrase it as to  
18 conversations that are not in that particular, I will  
19 allow him to answer.

20 Q. (By MS. WESTFALL) Are you following the advice  
21 of council?

22 A. Yes.

23 Q. Are you aware of any conversations related to  
24 Spanish surname voter registration and Senate Bill 362?

25 MR. SWEETEN: I'll let you answer the

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1 question as phrased. Don't reveal the substance of the  
2 conversation.

3 A. I don't recall.

4 Q. (By MS. WESTFALL) Were you in touch with Janice  
5 McCoy on a near daily basis during consideration of  
6 Senate Bill 362?

7 A. Probably.

8 Q. Outside of the communications between Lieutenant  
9 Governor's office and Senate Fraser's office that you  
10 just testified to, to which Jennifer Fagan may have been  
11 a party, are you aware of any other communications  
12 regarding the development with drafting Senate Bill 362?

13 MR. SWEETEN: Objection, as vague, compound,  
14 assumes facts not in evidence.

15 Q. (By MS. WESTFALL) You may answer.

16 A. Yeah.

17 MR. SWEETEN: Don't reveal the substance of  
18 conversations, those would be matters of legislative  
19 privilege. If she's asking you about conversations you  
20 can answer it to the extent you can.

21 A. I don't have any firsthand knowledge of what  
22 other people were talking about.

23 Q. (By MS. WESTFALL) I wasn't asking about the  
24 substance of the communication. I was asking about your  
25 knowledge of the existence of the communication and then

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1 your council made an objection which created a different  
2 question that is different from what I just asked. So  
3 I'm going to re-ask the question if it's okay.

4 Outside of communications between the Lieutenant  
5 Governor's office and Senator Fraser's office, are you  
6 aware of the existence of any other communication's  
7 regarding the development or drafting of Senate Bill  
8 362?

9 MR. SWEETEN: Objection, compound. You can  
10 answer.

11 A. I'm not aware of it.

12 Q. (By MS. WESTFALL) In your opinion, based on your  
13 experience handling election law bills and drafting,  
14 being a lawyer as you testified earlier today, sitting  
15 here today after Crawford, do you believe that States  
16 covered by Section 5 of the Voting Rights Act need not  
17 conduct an analysis of the impact of photo voter ID laws  
18 on minority voters.

19 MR. SWEETEN: You're asking him to reveal  
20 his thoughts, mental impressions, opinions, about  
21 legislation. I'm going to instruct you not to answer.  
22 That matter is subject to legislative privilege.

23 Q. (By MS. WESTFALL) Are you going to follow the  
24 advice of council?

25 A. Yes.

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1 Q. What was the purpose or purposes of Senate Bill  
2 362?

3 A. This bill, like the ones that you've shown me  
4 before, are intended to improve the integrity of the  
5 election system in Texas and instill confidence in the  
6 electoral.

7 Q. So improve integrity of the elections and the  
8 second one was instill confidence?

9 A. Correct.

10 Q. Anything else?

11 A. Again, any -- I suppose any given sponsor of a  
12 bill and amendment could have a different purpose or  
13 intent.

14 Q. But those are your understandings of the purposes  
15 sitting here today; is that correct?

16 A. Yes.

17 Q. Senator Fraser testified in deposition in this  
18 case that before he filed Senate Bill 362 he gave notice  
19 to the Lieutenant Governor; is that accurate?

20 A. He gave notice --

21 Q. That he was going to file; is that correct?

22 A. I don't recall.

23 Q. Are you aware of such communication?

24 MR. SWEETEN: Objection, asked and answered

25 A. No.

<p style="text-align: center;">201</p> <p>1 Q. (By MS. WESTFALL) Senator Fraser also testified</p> <p>2 at deposition that he had an in-person meeting with</p> <p>3 Mr. Dewhurst in his office regarding allowing non-photo</p> <p>4 ID in Senate Bill 362. Are you aware of that meeting?</p> <p>5 MR. SWEETEN: Objection, assumes facts not</p> <p>6 in evidence. You can answer.</p> <p>7 A. I don't recall a meeting. I guess I'm not aware</p> <p>8 of a meeting.</p> <p>9 Q. (By MS. WESTFALL) And you were the person who</p> <p>10 was developing and drafting the bill as you testified</p> <p>11 to, correct?</p> <p>12 MR. SWEETEN: Objection to the form.</p> <p>13 Objection, compound. You can answer.</p> <p>14 A. I was a person.</p> <p>15 Q. (By MS. WESTFALL) Was Senate Bill 362, was it's</p> <p>16 purpose to in terms of improving the integrity of</p> <p>17 elections, did that relate to in-person voter</p> <p>18 impersonation?</p> <p>19 MR. SWEETEN: You can testify as to the</p> <p>20 purpose of the legislation. Other than that, don't</p> <p>21 reveal matters that are subject to legislative privilege</p> <p>22 including your thoughts, mental impressions, about</p> <p>23 legislation.</p> <p>24 A. Again, looking at the draft, certainly whether or</p> <p>25 not a person has an acceptable ID when they show up to</p>	<p style="text-align: center;">203</p> <p>1 MR. SWEETEN: Don't reveal.</p> <p>2</p> <p>3 Q. (By MS. WESTFALL) Based on the face of the</p> <p>4 statute?</p> <p>5 MR. SWEETEN: Okay. I'm going to let you</p> <p>6 answer based upon the text of the statute. When</p> <p>7 answering, do not reveal your thoughts, mental</p> <p>8 impressions about legislation or furtherance of the</p> <p>9 legislation process or communications that you've had</p> <p>10 that I've already previously enumerated, okay?</p> <p>11 A. The Bill 362 adds a level of security to the</p> <p>12 voting process and presumably a level of security makes</p> <p>13 people feel more secure.</p> <p>14 Q. (By MS. WESTFALL) Okay. But in terms of the</p> <p>15 type of harm that it's targeting, based on the face of</p> <p>16 the statute, it's not mail inverter fraud of mail in</p> <p>17 ballots; is that right?</p> <p>18 MR. SWEETEN: You can limit your answer to</p> <p>19 what is on the text of the statute. Do not reveal your</p> <p>20 mental impressions or thoughts about legislation in</p> <p>21 doing so.</p> <p>22 A. Right. This bill in front of me does not address</p> <p>23 mail in ballots. Without me looking at it one more</p> <p>24 time.</p> <p>25 Q. (By MS. WESTFALL) And it does not address fraud</p>
<p style="text-align: center;">202</p> <p>1 vote is part of that bill.</p> <p>2 Q. (By MS. WESTFALL) And that would be targeted</p> <p>3 towards in-person voter impersonation, correct?</p> <p>4 MR. SWEETEN: Objection, asked and answered.</p> <p>5 Objection, to the extent it asks him to reveal matters</p> <p>6 that are subject to legislative privilege which includes</p> <p>7 mental impressions or opinions about the conversation.</p> <p>8 Q. (By MS. WESTFALL) Based on the face of this</p> <p>9 statute?</p> <p>10 A. Right. It says a voter who when offering to vote</p> <p>11 presents documentation, et cetera, et cetera, so, yes.</p> <p>12 Q. And to clarify your testimony, Senate Bill 362</p> <p>13 was targeted towards ensuring that in-person voter</p> <p>14 impersonation would not occur; is that right?</p> <p>15 MR. SWEETEN: Objection, asked and answered.</p> <p>16 Objection, to the extent that you're asking him to go</p> <p>17 beyond the purpose. He's expressed what the purpose is.</p> <p>18 You're asking matters that are subject to legislative</p> <p>19 privilege.</p> <p>20 A. Again, the document on its face in-person voter</p> <p>21 fraud is part of what it appears to be designed to</p> <p>22 combat.</p> <p>23 Q. (By MS. WESTFALL) How would Senate Bill 362</p> <p>24 preserve the integrity of elections in any other way</p> <p>25 than deterring in-person voter impersonation?</p>	<p style="text-align: center;">204</p> <p>1 that might occur at the voter registration stage; is</p> <p>2 that correct?</p> <p>3 MR. SWEETEN: Same instruction. Same</p> <p>4 objection.</p> <p>5 A. This Bill 362 does not directly address, doesn't</p> <p>6 appear to.</p> <p>7 Q. (By MS. WESTFALL) What is the basis for your</p> <p>8 testimony that you believe it would deter people from</p> <p>9 fraudulently registering to vote?</p> <p>10 MR. SWEETEN: In answering the question,</p> <p>11 don't reveal your thoughts, your mental impressions,</p> <p>12 your opinions about the legislation. I've let you</p> <p>13 answer as to the purpose of it. I think that that can</p> <p>14 be answered, but don't reveal your thoughts, mental</p> <p>15 impressions, or communications that we've discussed</p> <p>16 earlier.</p> <p>17 A. So the question is what is -- how does 362 --</p> <p>18 Q. (By MS. WESTFALL) Deter --</p> <p>19 A. -- deter fraudulent conduct?</p> <p>20 Q. I believe you testified earlier today that you</p> <p>21 were of the view that one of the purposes of HB 218</p> <p>22 would be to deter fraudulent voter registration; is that</p> <p>23 correct?</p> <p>24 A. I believe so.</p> <p>25 Q. And would you testify that with regard to SB 362</p>

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1 that it would likewise deter fraudulent voter  
 2 registration?  
 3 MR. SWEETEN: Same objection and  
 4 instruction.  
 5 A. Sure. Just looking at the draft, I think it has  
 6 that potential.  
 7 Q. (By MS. WESTFALL) What's the basis for you  
 8 saying that based on the statute?  
 9 MR. SWEETEN: You can testify --  
 10 Q. (By MS. WESTFALL) And the structure of the  
 11 election code?  
 12 MR. SWEETEN: You can testify as to the  
 13 specific text of the Bill. Do not reveal your thoughts,  
 14 mental impressions, or opinions about legislation that  
 15 is legislatively privileged. You've asserted your  
 16 privilege and that would be beyond the bounds of that  
 17 privilege.  
 18 A. So what is the question.  
 19 Q. (By MS. WESTFALL) I was just asking based on  
 20 your understanding of the election code and Senate Bill  
 21 362, how Senate Bill 362 would deter fraudulent voter  
 22 registration?  
 23 MR. SWEETEN: Same instruction as to  
 24 legislative privilege, objection.  
 25 A. I just think generally this Bill appears to deter

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1 fraudulent activity and if it requires a person to  
 2 commit several forms of fraud, maybe that makes it less  
 3 likely that a fraud will occur.  
 4 Q. (By MS. WESTFALL) Do you have any further  
 5 testimony or explanation as to the basis of your  
 6 conclusion?  
 7 A. No.  
 8 Q. That Senate Bill 362 would deter fraudulent voter  
 9 registration, other than what you just testified to?  
 10 A. No.  
 11 Q. And I believe that you testified that Senate Bill  
 12 362 would make the system more secure; is that correct?  
 13 MR. SWEETEN: Don't -- I object based on  
 14 legislative privilege. Don't reveal your thoughts,  
 15 mental impressions, opinions about the legislation.  
 16 It's legislatively privileged. Or the communications  
 17 that you had with the enumerated entities or individuals  
 18 we've been discussing.  
 19 Q. (By MS. WESTFALL) Do you have any testimony in  
 20 response to my question?  
 21 A. No.  
 22 Q. Are you following your counsel's advice on  
 23 privilege?  
 24 A. Yes.  
 25 Q. Would showing two forms of non-photo ID make the

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1 system more secure?  
 2 MR. SWEETEN: Same objection, same  
 3 instruction.  
 4 Q. (By MS. WESTFALL) Do you have any testimony?  
 5 A. No.  
 6 Q. Are you aware of any conversations about two  
 7 forms of non-photo ID making the system more secure?  
 8 A. Two forms of --  
 9 Q. Non-photo ID.  
 10 A. -- non-photo ID making it more secure?  
 11 Q. Yes?  
 12 A. More secure than what.  
 13 Q. The status quo?  
 14 MR. SWEETEN: You can testify as to a  
 15 general description of subject matter of a conversation,  
 16 whether conversations occurred. Don't reveal any  
 17 substance of communications.  
 18 A. Yes.  
 19 Q. (By MS. WESTFALL) When did that conversation  
 20 occur?  
 21 A. I think it would have been simultaneous with the  
 22 development of this draft, this bill.  
 23 Q. Is this the conversation you already testified to  
 24 previously?  
 25 A. Maybe? Which conversation?

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1 Q. Without discussing the subject matter it's hard  
 2 for me to refer to previous testimony that you've given,  
 3 but when did this conversation occur?  
 4 A. It would have been, again, probably 2008, 2009.  
 5 Q. Were you a party to the conversation?  
 6 A. I was party to conversations, yes.  
 7 Q. And who else was a party to the conversation?  
 8 A. Probably Janice McCoy, possibly Julia Rathgeber,  
 9 possibly Senator Fraser.  
 10 Q. Was Mr. Dewhurst a party to any of these  
 11 conversations?  
 12 A. Not that I recall.  
 13 Q. How many conversations did you have involving the  
 14 use of non-photo ID?  
 15 MR. SWEETEN: You can answer.  
 16 A. In 2009. Some, I think -- some.  
 17 Q. (By MS. WESTFALL) Were these conversations in  
 18 person?  
 19 A. I think, probably, yes.  
 20 Q. Were any of these in writing?  
 21 A. Not that I recall.  
 22 Q. Was there any e-mail on this topic in 2008 or '9?  
 23 A. There might have been, but I don't recall.  
 24 Q. Would it have been between you and Ms. McCoy?  
 25 A. Probably.

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1 Q. Do you recall any communications with legislators  
2 who opposed Senate Bill 362?

3 A. In 2009 on Senate Bill 362? I can't recall.

4 Q. Would you have been at those meetings had the  
5 been held since you were the staff person who handled  
6 the bill?

7 MR. SWEETEN: Objection, calls for  
8 speculation.

9 A. I don't know if I would have been at every  
10 meeting.

11 Q. (By MS. WESTFALL) Would you have generally have  
12 had a sense in your role as a deputy general counsel for  
13 the Lieutenant Governor -- when you handled the bill,  
14 would you generally know about meetings with opponents,  
15 with supporter, et cetera, to inform you of how to craft  
16 the bill to respond to those concerns of supporters?

17 MR. SWEETEN: Objection, the question is  
18 vague. Objection, form.

19 A. I can't say that I was aware of every meeting  
20 about Senate Bill 362.

21 Q. (By MS. WESTFALL) Do you think you were aware of  
22 most of the meetings --

23 MR. SWEETEN: Objection, calls for  
24 speculation.

25 Q. (By MS. WESTFALL) -- that Lieutenant Governor had

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1 regarding that subject?

2 MR. SWEETEN: Objection, calls for  
3 speculation.

4 A. I don't know.

5 Q. (By MS. WESTFALL) Was it your impression that  
6 you were kept in the dark as you were drafting Senate  
7 Bill 362 about communications about the very topic  
8 that -- and very bill that you were drafting?

9 MR. SWEETEN: Objection, speculation.  
10 Objection, argumentative. Go ahead.

11 Q. (By MS. WESTFALL) You may answer.

12 A. Again, I was a person working on the draft.

13 Q. I believe your testimony earlier was that you  
14 were -- the Lieutenant Governor's office you were the  
15 central person, the main person?

16 A. Correct. And he's not a sponsor.

17 Q. He's not a sponsor, but you were the one handling  
18 it for the Lieutenant Governor's office, right?

19 A. Correct.

20 Q. Who were the main opponents to Senate Bill 362?

21 A. I would have to go back and look at the record of  
22 the hearing.

23 Q. Can you not think of any opponents to the bill  
24 right now, either within the legislature or outside?

25 A. Sure. Senator --

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1 MR. SWEETEN: Hold on a minute. When you're  
2 answering the question don't reveal communications you  
3 had with Senators or legislators or legislative staff.

4 So to the extent you can refer to matters of the public  
5 record, do not reveal those matters, you can do to so.

6 A. My memory from the Committee hearing is that  
7 Senator Van de Putte, Senator West, Senator Gallegos,  
8 Senator Watson, opposed the bill and there may have been  
9 others.

10 Q. (By MS. WESTFALL) Can you identify based on your  
11 review of Senate Bill 362, any parts of the bill that  
12 were changed in response to those concerns by the bills  
13 opponents?

14 MR. SWEETEN: That question asks you to  
15 reveal matters that are legislatively privileged,  
16 specifically it requires you to reveal thoughts, mental  
17 impressions about legislation. It also would ask you to  
18 reveal communications between legislatures, legislative  
19 staff, State agencies, Texas Leg. Council, so you can  
20 answer as to matters of the public record, but do not  
21 answer to the extent that it would invade legislative  
22 privilege.

23 A. Right. I don't recall from the public record if  
24 there were amendments or specific debate that resulted  
25 in changes.

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1 Q. (By MS. WESTFALL) And are you following the  
2 advice of council in part in that answer?

3 A. Yes.

4 Q. Did the Lieutenant Governor's office play a role  
5 in attempting to secure passage of Senate Bill 362 in  
6 the Senate?

7 MR. SWEETEN: Objection, that calls for  
8 legislatively privileged unless it's asking for matters  
9 on the public record which you can answer.

10 A. Did Lieutenant Governor attempt to secure passage  
11 of SB 362?

12 Q. (By MS. WESTFALL) Yes.

13 MR. SWEETEN: Don't reveal matters of  
14 privilege.

15 Q. (By MS. WESTFALL) Do you have any testimony in  
16 response?

17 A. No.

18 Q. Are you relying upon your counsel's advice?

19 A. Yes.

20 Q. Could you mark this as US 76?

21 (Exhibit No. 76 was marked.)

22 Q. (By MS. WESTFALL) I'm handing you what has been  
23 marked as US 76. Do you recognize this document?

24 MR. SWEETEN: Do I have a copy of that?

25 A. Looks like a Dallas morning news article about



<p style="text-align: center;">213</p> <p>1 photo ID, early in session.</p> <p>2 Q. (By MS. WESTFALL) Have you seen this document</p> <p>3 before?</p> <p>4 A. I may have read it, but I don't recall.</p> <p>5 Q. Can you take a look at it, just a few paragraphs</p> <p>6 in where it quotes the Lieutenant Governor?</p> <p>7 A. Okay.</p> <p>8 Q. Have you had a chance to review it?</p> <p>9 A. Uh-huh.</p> <p>10 Q. Could you describe what this article is</p> <p>11 concerning?</p> <p>12 A. It's beginning of session and it talks about how</p> <p>13 voter ID might cause some disagreement in the Senate.</p> <p>14 Q. And it refers to the so-called two-thirds rule;</p> <p>15 is that right?</p> <p>16 A. Yes.</p> <p>17 Q. Can you describe the controversy surrounding the</p> <p>18 two-thirds rule in 2009?</p> <p>19 MR. SWEETEN: You can describe matters of</p> <p>20 public record, don't reveal any communications that</p> <p>21 you've had with legislatures or legislative staff or</p> <p>22 reveal your thoughts, mental impressions, opinions about</p> <p>23 legislation in answering.</p> <p>24 A. Right. I mean, I think, looking at the article</p> <p>25 some bills come to the floor or maybe most bills come to</p>	<p style="text-align: center;">215</p> <p>1 (Exhibit No. 77 was marked.)</p> <p>2 Q. (By MS. WESTFALL) You've been handed what's been</p> <p>3 marked as US 77. Do you recognize this document?</p> <p>4 A. Yes.</p> <p>5 Q. And what is it?</p> <p>6 A. Appears to be a copy of rule 5.11 from the Senate</p> <p>7 rules in 2009.</p> <p>8 Q. Are you familiar with this rule?</p> <p>9 A. Generally.</p> <p>10 Q. Do you know the circumstances under which this</p> <p>11 rule was adopted in 2009?</p> <p>12 MR. SWEETEN: Don't answer any matters that</p> <p>13 would impede legislative privilege. That would be</p> <p>14 thoughts, mental impressions about legislation, that</p> <p>15 would be discussions that you've had with Senators,</p> <p>16 legislative staff, Lieutenant Governor Dewhurst.</p> <p>17 A. The question is, am I aware --</p> <p>18 Q. (By MS. WESTFALL) Are you aware of the</p> <p>19 circumstances under which rule 5.11 was adopted in 2009?</p> <p>20 A. I think I'll assert privilege.</p> <p>21 Q. I'm sorry. You're asserting privilege with</p> <p>22 regard to?</p> <p>23 MR. SWEETEN: The circumstances on which --</p> <p>24 as to the question and I instructed him so.</p> <p>25 Q. (By MS. WESTFALL) What was the purpose of</p>
<p style="text-align: center;">214</p> <p>1 the Senate floor, again, if only -- only if two-thirds</p> <p>2 of the Senate agrees to consider those bills. And so</p> <p>3 there's a disagreement about whether that rule should</p> <p>4 apply to debate over voter ID.</p> <p>5 Q. (By MS. WESTFALL) And do you see that Lieutenant</p> <p>6 Governor Dewhurst is quoted as saying, I don't think the</p> <p>7 two-thirds rule is going to change. Do you see that?</p> <p>8 A. I see that.</p> <p>9 Q. Do you think he said that?</p> <p>10 MR. SWEETEN: Objection, calls for</p> <p>11 speculation.</p> <p>12 A. It's in quotes. I don't recall him saying that.</p> <p>13 Q. (By MS. WESTFALL) Do you believe he expressed</p> <p>14 that sentiment that it wasn't going to change as to this</p> <p>15 day in 2009?</p> <p>16 MR. SWEETEN: Objection, speculation.</p> <p>17 A. Yeah. I don't know. That's what the article</p> <p>18 says.</p> <p>19 Q. (By MS. WESTFALL) Would Mr. Dewhurst be the best</p> <p>20 person to ask that question of?</p> <p>21 A. Or the reporter.</p> <p>22 Q. Are you familiar with the 2009 Senate rules?</p> <p>23 A. Generally.</p> <p>24 Q. Do you remember that -- actually. Hang on.</p> <p>25 Could you mark this as 77?</p>	<p style="text-align: center;">216</p> <p>1 exempting voter ID requirements in rule 5.11?</p> <p>2 MR. SWEETEN: I'm going to object to the</p> <p>3 question. I think you're asking now about specific</p> <p>4 thoughts, mental impressions, opinions about legislation</p> <p>5 and/or communications between legislatures, legislative</p> <p>6 staff.</p> <p>7 MS. WESTFALL: I'm asking about the purpose</p> <p>8 of the Senate rule. My question stands.</p> <p>9 MR. SWEETEN: But the court's ruling related</p> <p>10 to the purpose of the specific voter ID legislation not</p> <p>11 as to specific Senate rules and his understanding of the</p> <p>12 purpose of that.</p> <p>13 MS. WESTFALL: Is it your view that</p> <p>14 questions concerning the purpose of Senate rules or</p> <p>15 other legislation, other than voter ID is something upon</p> <p>16 which you can assert privilege and instruct a witness</p> <p>17 not to answer questions in a deposition.</p> <p>18 MR. SWEETEN: When you're asking him</p> <p>19 questions about why was this rule 5.11 adopted by the</p> <p>20 Senate, you're asking for his subjective impressions as</p> <p>21 to why this bill was included. Therefore, you were</p> <p>22 asking matters that are subject to legislative</p> <p>23 privilege. You're also asking matters that could</p> <p>24 require him to reveal communications he's had with</p> <p>25 legislatures or legislative staff. So I think that's</p>

<p style="text-align: center;">217</p> <p>1 squarely within the area of privilege.</p> <p>2 MS. WESTFALL: I'm not asking about his</p> <p>3 subjective intent. None of the questions I am asking</p> <p>4 today go to suggesting intent, they go to purpose. What</p> <p>5 was the purpose of the Senate in adopting rule 5.11?</p> <p>6 MR. SWEETEN: Okay. I'll let you answer</p> <p>7 just as to the purpose of 5.11. You can answer that</p> <p>8 question.</p> <p>9 A. When you say purpose you're not asking the</p> <p>10 intent, you're asking what does this do.</p> <p>11 BY MS. WESTFALL:</p> <p>12 Q. Sure. Yes. What does this do?</p> <p>13 A. Rule 5.11 from 2009 appears to say that a bill</p> <p>14 can be considered on the affirmative vote of two-thirds</p> <p>15 of the members, except that voter identification bill</p> <p>16 considered by the Committee of the whole can be set to</p> <p>17 special order 24 hours -- 24 hours notice.</p> <p>18 Q. So is the effect of this rule based on the face</p> <p>19 of the rule, not based on any privileged conversations</p> <p>20 you had; is that it carves out an exemption for voter ID</p> <p>21 in 2009?</p> <p>22 MR. SWEETEN: I'll let you answer as to the</p> <p>23 text.</p> <p>24 A. 5.11 has a general rule and says, notwithstanding</p> <p>25 the general rule there are other criteria for voter</p>	<p style="text-align: center;">219</p> <p>1 when these rules were adopted. It would have been</p> <p>2 senior staff in my office. Again, Blaine Brunson and</p> <p>3 Julia Rathgeber likely. But I don't have memory of</p> <p>4 specific conversations about this.</p> <p>5 Q. Was it after the rule was adopted or before the</p> <p>6 rule was adopted?</p> <p>7 A. I don't recall.</p> <p>8 Q. Was it an in person meeting or an e-mail</p> <p>9 communication or phone call?</p> <p>10 A. I think probably in person discussions.</p> <p>11 Q. Were you talking about the ramifications of rule</p> <p>12 5.11 or development of the rules?</p> <p>13 MR. SWEETEN: The question is asking you to</p> <p>14 reveal the specific subject matter. Don't do that.</p> <p>15 That impacts the attorney/client privilege as well as</p> <p>16 the legislative privilege. So you can answer it. I've</p> <p>17 let you as to who was involved, when, how long, but</p> <p>18 don't reveal the subject.</p> <p>19 Q. (By MS. WESTFALL) Are you following the advice</p> <p>20 of council?</p> <p>21 A. Yes.</p> <p>22 Q. Was Mr. Dewhurst, himself, involved in this</p> <p>23 communication?</p> <p>24 A. Not that I recall.</p> <p>25 Q. It was solely staff?</p>
<p style="text-align: center;">218</p> <p>1 identification, bills or resolutions.</p> <p>2 Q. (By MS. WESTFALL) And what is that criteria for</p> <p>3 voter identification resolutions set forth in 5.11?</p> <p>4 A. That a bill of resolution reported favorably from</p> <p>5 the Committee of the whole may be set as a special order</p> <p>6 with 24 hours notice.</p> <p>7 Q. Are you aware of any communications involving the</p> <p>8 Lieutenant Governor pertaining to rule 5.11 in the 2009</p> <p>9 rules?</p> <p>10 MR. SWEETEN: You can answer if you're aware</p> <p>11 of any communication.</p> <p>12 A. Yes.</p> <p>13 Q. (By MS. WESTFALL) When did that communication</p> <p>14 occur?</p> <p>15 A. January. I don't know. It would have been 2008</p> <p>16 or 2009.</p> <p>17 Q. Are you aware of more than one communication on</p> <p>18 this topic?</p> <p>19 A. Yes.</p> <p>20 Q. When was the first one that you're aware of, when</p> <p>21 did that take place?</p> <p>22 A. Again, it would have been right before -- right</p> <p>23 at the beginning of session. So 2008 or January 2009.</p> <p>24 Q. Who was a party to that communication?</p> <p>25 A. I remember it was discussed generally, I mean,</p>	<p style="text-align: center;">220</p> <p>1 A. That's my memory, yes.</p> <p>2 Q. And there was more than one communication; is</p> <p>3 that correct?</p> <p>4 A. Probably.</p> <p>5 Q. Do you believe there was a conversation in the</p> <p>6 end of 2008 regarding the two-thirds rule and voter ID?</p> <p>7 A. A conversation before session started in '09</p> <p>8 about the two-thirds rule.</p> <p>9 Q. Correct.</p> <p>10 A. Do I believe it?</p> <p>11 Q. Do you recall?</p> <p>12 A. Oh, I don't recall it. Again, no, it's possible</p> <p>13 that it was discussed, but I really can't recall whether</p> <p>14 it was reacting to this or before this.</p> <p>15 Q. When did you first hear about photo ID and the</p> <p>16 two-thirds rule?</p> <p>17 A. I think within generally, it would have been late</p> <p>18 2008, early 2009 is my guess. I don't remember a</p> <p>19 specific date of when I heard about it.</p> <p>20 Q. Did you have any conversations with anyone</p> <p>21 outside of the Lieutenant Governor's office about the</p> <p>22 two-thirds rule and voter ID before the rule was</p> <p>23 adopted?</p> <p>24 A. I don't think so. I don't recall.</p> <p>25 Q. Did you have any discussions with Janice McCoy or</p>

<p style="text-align: center;">221</p> <p>1 this topic?</p> <p>2 A. I don't recall.</p> <p>3 Q. Did you have any discussions with anyone in</p> <p>4 Governor Perry's office about this topic?</p> <p>5 A. Probably not. But I don't recall for sure.</p> <p>6 Q. Based upon your experience working for the</p> <p>7 Lieutenant Governor, how many times has the two-thirds</p> <p>8 rule been suspended as a matter of public record?</p> <p>9 MR. SWEETEN: You can answer.</p> <p>10 A. There was a -- I remember there being debate on</p> <p>11 the Senate floor about how often this happens and it</p> <p>12 seemed like under Lieutenant Governor Dewhurst it</p> <p>13 perhaps had happened once or twice. But then</p> <p>14 historically it happened more than that.</p> <p>15 Q. (By MS. WESTFALL) And what were the occasions</p> <p>16 you're aware of, the two-thirds rule has been suspended?</p> <p>17 A. I'm not aware of specific examples. I just</p> <p>18 remember discussion of it has happened before.</p> <p>19 Q. Janice McCoy testified in deposition she was</p> <p>20 unaware of any other bills except voter ID being</p> <p>21 exempted from the two-thirds rule. Do you believe that</p> <p>22 testimony is accurate?</p> <p>23 A. I guess, I believe she's not aware. I'm not sure</p> <p>24 that that's right or not. It seems like there may have</p> <p>25 been -- in my memory, there may have been one special</p>	<p style="text-align: center;">223</p> <p>1 matters that are subject to the legislative privilege.</p> <p>2 She ask you to reveal thoughts or mental impressions</p> <p>3 about legislation, legislative process so I'm going to</p> <p>4 instruct you don't reveal those to the extent you can</p> <p>5 refer to matters that are public record you're free to</p> <p>6 do so.</p> <p>7 A. I'm not aware of public statements by Senators</p> <p>8 about whether they were willing to vote for or against</p> <p>9 the bill. But, again, in the legislative process the</p> <p>10 bill goes through different iterations and for any</p> <p>11 number of reasons a member can change their vote so --</p> <p>12 and they do change their votes. I don't know the answer</p> <p>13 about whether it could have passed.</p> <p>14 Q. (By MS. WESTFALL) Did Senate Bill 362 ultimately</p> <p>15 pass the Senate?</p> <p>16 A. Yes.</p> <p>17 Q. Did it pass by two-thirds?</p> <p>18 A. I don't recall. I believe it was majority.</p> <p>19 Q. Are you aware of any other communications related</p> <p>20 to consideration of modifying any other Senate rules in</p> <p>21 addition to rule 5.11, with regard to voter ID bills?</p> <p>22 MR. SWEETEN: She's asking you to reveal</p> <p>23 communications that may have occurred between</p> <p>24 legislatures and legislative staff, State agencies,</p> <p>25 Texas Leg. Council, as well as to reveal your thoughts</p>
<p style="text-align: center;">222</p> <p>1 session, but again, I can't remember the specific</p> <p>2 examples. Just that there were examples.</p> <p>3 Q. Did it pertain to the directing?</p> <p>4 A. Maybe.</p> <p>5 Q. Would Senate Bill 362 have passed the Senate if</p> <p>6 the Senate had not adopted rule 5.11 in the 2009 Senate</p> <p>7 rules?</p> <p>8 MR. SWEETEN: Objection. When you're</p> <p>9 answering the question, don't reveal thoughts or mental</p> <p>10 impressions or opinions about legislation or furtherance</p> <p>11 of the legislative process.</p> <p>12 A. I don't know. I don't know whether it would have</p> <p>13 passed or not.</p> <p>14 Q. (By MS. WESTFALL) You have no idea?</p> <p>15 A. I have no idea.</p> <p>16 Q. Was it -- was the bill passed on party lines,</p> <p>17 Senate Bill 14?</p> <p>18 A. I believe that it was.</p> <p>19 Q. So sitting here today you have no understanding</p> <p>20 of whether the bill would have or would not have --</p> <p>21 whether -- I'm sorry. Strike that.</p> <p>22 Sitting here today you no idea of whether Senate</p> <p>23 Bill 362 would have passed if it had been subject to a</p> <p>24 two-thirds rule in 2009?</p> <p>25 MR. SWEETEN: Yeah. She's asking for</p>	<p style="text-align: center;">224</p> <p>1 and mental impressions, opinions about legislation. To</p> <p>2 the extent you're asserting the legislative privilege</p> <p>3 that question that asks for matters of the legislative</p> <p>4 privilege so my instruction would be not to answer the</p> <p>5 question.</p> <p>6 Q. (By MS. WESTFALL) Are you going to follow your</p> <p>7 counsel's advice?</p> <p>8 A. Yes.</p> <p>9 Q. Was Senate Bill 362 considered by any Senate</p> <p>10 committees?</p> <p>11 MR. SWEETEN: You can answer as a matter of</p> <p>12 public record.</p> <p>13 A. I believe it was considered by the Committee of</p> <p>14 the whole.</p> <p>15 Q. (By MS. WESTFALL) And ordinarily it would have</p> <p>16 been sent to State affairs; is that right?</p> <p>17 A. I don't know that. But given that other election</p> <p>18 bills were generally referred there, then probably.</p> <p>19 Q. Janice McCoy testified in her deposition it was</p> <p>20 unusual for a bill to go straight to the Committee of</p> <p>21 the whole, do you agree with that assessment?</p> <p>22 A. Most bills do not go to Committee of the whole.</p> <p>23 Q. What was the purpose of the assignment of Senate</p> <p>24 Bill 362 to the Committee of the whole?</p> <p>25 MR. SWEETEN: In that question she's asking</p>

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1 you to reveal thoughts, mental impressions, opinions  
2 about legislation or further answer of the legislative  
3 process as well as communications. Therefore, that  
4 would be a matter that is subject to the legislative  
5 privilege?

6 Q. (By MS. WESTFALL) Are you asserting privilege  
7 and not answering the question?

8 A. Yes.

9 Q. What was Lieutenant Governor's role, generally,  
10 during Senate Bill 362, as Committee of the whole?

11 MR. SWEETEN: In that -- to the extent that  
12 she's asking you to reveal thoughts, mental impressions,  
13 opinions about legislation or furtherance of the  
14 legislative process including communications you had  
15 with Lieutenant Governor Dewhurst, legislatures,  
16 legislative staff, state agencies, Texas Legislative  
17 Council, so don't reveal those. To the extent you can  
18 refer to matters of the public record you're free to do  
19 so.

20 A. I believe the Senate rules provide that he can  
21 participate and vote like any Senator and my memory is  
22 that he was on the Senate floor and I don't recall if he  
23 had questions for witnesses or not. I believe he did  
24 cast a vote on the bill.

25 Q. (By MS. WESTFALL) On 362 before the Committee of

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1 the whole; is that right?

2 A. I believe that's right.

3 Q. Did he vote in favor of the bill?

4 A. I believe he did.

5 Q. During the floor debate on Senate Bill 362, do  
6 you recall any concerns about the impact of the bill on  
7 minority voters on the public record?

8 MR. SWEETEN: If she's asking you what was  
9 expressed on the public record you're free to answer.  
10 Don't reveal matters of legislative privilege. Go  
11 ahead.

12 A. I do recall discussion during the public debate  
13 of 326 about the impact on voters, yes.

14 Q. (By MS. WESTFALL) On minority voters?

15 A. All voters, including minority voters.

16 Q. And who expressed those concerns?

17 A. My memory is that most of the witnesses had  
18 something to say about it.

19 Q. What was the response to those concerns?

20 MR. SWEETEN: Again, you can reveal matters  
21 on the public record, but don't reveal matters that are  
22 subject to the legislative privilege.

23 A. I don't recall particular responses. I'm  
24 assuming you mean from the Senators themselves. I don't  
25 recall.

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1 Q. (By MS. WESTFALL) Was there any response from  
2 Lieutenant Governor to these concerns?

3 MR. SWEETEN: Same objection, same  
4 instruction.

5 A. I don't recall if he had questions of witnesses  
6 or not.

7 Q. (By MS. WESTFALL) Are you asserting privilege  
8 over your response in part?

9 MR. SWEETEN: Well, I mean, I thought you  
10 were asking matters of the public record.

11 MS. WESTFALL: I am. I thought you made an  
12 objection.

13 MR. SWEETEN: Well, I mean, I instructed and  
14 I'll continue to do so. You can refer to matters on the  
15 public record to the extent that it's asking for  
16 something else other than legislative privilege that  
17 would my instruction.

18 A. I don't remember any public input. I don't  
19 remember specific public questions or input from  
20 Lieutenant Governor or anyone else on the floor about  
21 the testimony from the witnesses. I know there was. I  
22 just don't remember particular specifics.

23 Q. (By MS. WESTFALL) Based on the bill history of  
24 Senate Bill 362, were there any changes in the  
25 iterations of the bill, either from when it was filed,

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1 went through the drafting process that were made in  
2 response to concerns about the impact of the bill on  
3 minority matters?

4 MR. SWEETEN: You're asking him to reveal  
5 thoughts, mental impressions, or opinions about  
6 legislation or furtherance of the legislative process as  
7 well as protected communications. So I'm asserting --  
8 I'm objecting based upon legislative privilege.

9 Q. (By MS. WESTFALL) Do you recall that there was a  
10 letter from Senators expressing concern that ethnic and  
11 racial minority members of the Senate were unified in  
12 their opposition to Senate bill 362?

13 MR. SWEETEN: Is this a matter of public  
14 record.

15 MS. WESTFALL: Yes.

16 A. Yes.

17 BY MS. WESTFALL:

18 Q. You recall that letter?

19 A. I believe so, yes.

20 Q. Do you recall any conversations in response to  
21 that letter?

22 MR. SWEETEN: Don't reveal matters of  
23 legislative privilege including discussions you have had  
24 with staffers, legislators, Lieutenant Governor, et  
25 cetera. You are free to refer to the matters of the

<p style="text-align: center;">229</p> <p>1 public record.</p> <p>2 A. Right. I don't recall the specific public</p> <p>3 response to that letter from Lieutenant Governor</p> <p>4 Dewhurst or anyone else.</p> <p>5 Q. So you're talking about public record, public</p> <p>6 response. Are you aware of any conversations about that</p> <p>7 letter?</p> <p>8 MR. SWEETEN: You can answer if you're aware</p> <p>9 of conversations.</p> <p>10 A. Right. I cannot recall.</p> <p>11 Q. (By MS. WESTFALL) Was it true that some</p> <p>12 legislatures and members of the public stayed up all</p> <p>13 night during consideration of Senate Bill 362?</p> <p>14 A. I did. We did.</p> <p>15 Q. And many people did?</p> <p>16 A. My recollection is the Senate chamber was --</p> <p>17 certainly the Senators did. Yes, there was some public</p> <p>18 testimony.</p> <p>19 Q. Why do you think there was such strong opposition</p> <p>20 to Senate bill 362?</p> <p>21 MR. SWEETEN: Don't answer. That would</p> <p>22 require you to reveal thoughts mental impressions</p> <p>23 opinions about legislation. It's a matter that is</p> <p>24 subject to legislative privilege.</p> <p>25 A. Right.</p>	<p style="text-align: center;">231</p> <p>1 from a procedural standpoint.</p> <p>2 Q. Did you any conversations with House members or</p> <p>3 their staff concerning Senate Bill 362 when it was</p> <p>4 referred to the House?</p> <p>5 MR. SWEETEN: You can answer whether you had</p> <p>6 any conversations.</p> <p>7 A. I may have had conversations.</p> <p>8 Q. (By MS. WESTFALL) With whom?</p> <p>9 A. House staff.</p> <p>10 Q. And who specifically?</p> <p>11 A. I can't remember the names of staff.</p> <p>12 Q. Did you talk to Speaker Strauss's staff?</p> <p>13 A. Probably.</p> <p>14 Q. Did you talk to Meredith Fowler?</p> <p>15 A. Probably.</p> <p>16 Q. Was she the main person handling photo ID issues</p> <p>17 for the Speaker in 2009?</p> <p>18 A. I don't know if she was the primary person. She</p> <p>19 was a person that I talked to.</p> <p>20 Q. What was her role?</p> <p>21 A. I believe she's a lawyer in the Speaker's office.</p> <p>22 Q. Is she still employed with the Speaker or is she</p> <p>23 no longer employed with the Speaker?</p> <p>24 MR. SWEETEN: You can answer.</p> <p>25 A. I think she's still employed.</p>
<p style="text-align: center;">230</p> <p>1 Q. (By MS. WESTFALL) Are you asserting privilege?</p> <p>2 A. Yes.</p> <p>3 Q. Are you aware of any amendments to Senate Bill</p> <p>4 362 that were -- which had the purpose of addressing the</p> <p>5 concerns of minority legislatures or minority voters?</p> <p>6 MR. SWEETEN: As phrased, the question</p> <p>7 requires you to reveal thoughts, mental impressions,</p> <p>8 opinions about legislation or furtherance of the</p> <p>9 legislative process subject to legislative privilege. I</p> <p>10 instruct you not to answer.</p> <p>11 Q. (By MS. WESTFALL) Are you following the advice</p> <p>12 of council?</p> <p>13 A. Yes.</p> <p>14 Q. Did Senate Bill 326 pass the Senate?</p> <p>15 MR. SWEETEN: You can answer.</p> <p>16 A. Yes.</p> <p>17 Q. (By MS. WESTFALL) Did it get referred to the</p> <p>18 House?</p> <p>19 A. I believe it did.</p> <p>20 Q. Did you play any role in Senate Bill 362 once it</p> <p>21 went to the House?</p> <p>22 MR. SWEETEN: Objection, vague.</p> <p>23 Q. (By MS. WESTFALL) You may answer.</p> <p>24 A. I think in a similar way that I was available for</p> <p>25 questions. I was available as a resource. Certainly</p>	<p style="text-align: center;">232</p> <p>1 Q. (By MS. WESTFALL) How many conversations did you</p> <p>2 have with Ms. Fowler?</p> <p>3 A. Probably a few, more than a handful, but not a</p> <p>4 lot.</p> <p>5 Q. Did you have conversations with any other staff</p> <p>6 person in the House regarding Senate Bill 362?</p> <p>7 A. Perhaps the staff in the bill sponsor's office.</p> <p>8 Q. Was that -- so what happened to Senate Bill 362</p> <p>9 in the House?</p> <p>10 A. I cannot recall. It did not pass.</p> <p>11 Q. Do you know why?</p> <p>12 MR. SWEETEN: Objection. She's asking</p> <p>13 you -- to the extent she's asking you for communications</p> <p>14 you've had with individuals or thoughts, mental</p> <p>15 impressions, or opinions about legislation.</p> <p>16 A. I don't know why.</p> <p>17 MR. SWEETEN: Therefore privileged.</p> <p>18 Q. (By MS. WESTFALL) Was a photo ID bill introduced</p> <p>19 in the Senate in 2011?</p> <p>20 MR. SWEETEN: You can answer.</p> <p>21 A. Yes.</p> <p>22 Q. (By MS. WESTFALL) Was it Senate Bill 214?</p> <p>23 A. Yes.</p> <p>24 Q. Did Senator Fraser introduce that?</p> <p>25 A. Yes.</p>

<p style="text-align: center;">233</p> <p>1 Q. Senator Fraser testified in deposition in this</p> <p>2 case he started working on the bill on May 31, 2009. Do</p> <p>3 you believe that sounds accurate?</p> <p>4 A. I believe that sounds like Senator Fraser.</p> <p>5 Q. In other words, it's accurate?</p> <p>6 A. Sure.</p> <p>7 Q. Did the Lieutenant Governor or anyone in his</p> <p>8 office have any conversations prior to May 31, 2009</p> <p>9 about Senate Bill 14?</p> <p>10 A. So did we discuss that Bill 14 before the end of</p> <p>11 2009 session?</p> <p>12 Q. Correct.</p> <p>13 A. I don't recall. I mean, as a practical matter it</p> <p>14 wouldn't have even had a number.</p> <p>15 Q. I'll rephrase it to say, did you conceptually</p> <p>16 discuss filing a photo ID bill in the 2011 session prior</p> <p>17 to May 31, 2009?</p> <p>18 A. I can't recall.</p> <p>19 Q. Did the Lieutenant Governor promise anyone he</p> <p>20 would file -- or push -- not file, push photo ID in</p> <p>21 legislation 2011?</p> <p>22 MR. SWEETEN: The question potentially calls</p> <p>23 for matters that are -- calls for information that would</p> <p>24 be protected by the legislative privilege including</p> <p>25 conversations you had with the Lieutenant Governor,</p>	<p style="text-align: center;">235</p> <p>1 A. I don't recall any promise.</p> <p>2 BY MS. WESTFALL:</p> <p>3 Q. Are you asserting any privileges in responding to</p> <p>4 that question?</p> <p>5 MR. SWEETEN: I haven't instructed him as to</p> <p>6 privilege.</p> <p>7 A. I just don't recall.</p> <p>8 Q. (By MS. WESTFALL) Was Senate Bill 14</p> <p>9 considered -- strike that.</p> <p>10 Was Senate Bill 14 designated by the Governor to</p> <p>11 be emergency legislation?</p> <p>12 A. Yes. Well, the issue of voter identification was</p> <p>13 an issue that was deemed to be an emergency issue.</p> <p>14 Q. How did voter ID come to receive that emergency</p> <p>15 designation?</p> <p>16 MR. SWEETEN: Objection. You're asking for</p> <p>17 thoughts, mental impressions, or opinions about</p> <p>18 legislation. You can testify about matters in the</p> <p>19 public record.</p> <p>20 A. I don't recall the Governor's statement about why</p> <p>21 he added the emergency items that he did to the</p> <p>22 emergency call.</p> <p>23 Q. (By MS. WESTFALL) Are you asserting legislative</p> <p>24 privilege over gubernatorial acts as the Governor is not</p> <p>25 able to introduce legislation? Is that your position?</p>
<p style="text-align: center;">234</p> <p>1 legislative staff, legislators, or it also could require</p> <p>2 you to reveal thoughts or mental impressions about the</p> <p>3 bill. So to the extent that she's asking for matters of</p> <p>4 legislative question do not answer the question.</p> <p>5 MS. WESTFALL: Is it your position that</p> <p>6 promises to advance legislation falls within legislative</p> <p>7 privilege?</p> <p>8 MR. SWEETEN: You're asking about a</p> <p>9 conversation that Lieutenant --</p> <p>10 MS. WESTFALL: Promises to advance</p> <p>11 legislation. Are you saying that falls within the</p> <p>12 privilege? Is that your position?</p> <p>13 MR. SWEETEN: Well, I mean I think what you</p> <p>14 are asking for is the substance of communications that</p> <p>15 Lieutenant Governor Dewhurst may or may not have had</p> <p>16 with someone. If you want to ask specifically about</p> <p>17 whether he had a conversation with someone about the</p> <p>18 bill that's a general subject matter, I think promises</p> <p>19 that relates to, you know, is probably a little beyond</p> <p>20 what you're allowed to ask for.</p> <p>21 Q. So you're asserting privilege over promises,</p> <p>22 Mr. Sweeten? I'm not sure you've take then position.</p> <p>23 MR. SWEETEN: You know what. I'm going to</p> <p>24 let him answer as to promises. You can answer that</p> <p>25 question.</p>	<p style="text-align: center;">236</p> <p>1 MR. SWEETEN: Well, what I'm saying is, if</p> <p>2 you're asking him questions about communications he's</p> <p>3 had with the State agency including the Governors</p> <p>4 office, legislatures, legislative staff, and you're</p> <p>5 asking him to reveal that information, then that would</p> <p>6 be subject to legislative privilege. I also said he can</p> <p>7 testify about matters in the public record so to the</p> <p>8 extent it involves privilege don't answer it. If you</p> <p>9 can answer without providing information that would be</p> <p>10 privileged then you can do so.</p> <p>11 A. The short answer is, I don't know why he added</p> <p>12 the items he did to the list of emergency items.</p> <p>13 Q. (By MS. WESTFALL) Are you aware of any</p> <p>14 communications on that topic?</p> <p>15 A. No.</p> <p>16 Q. Are you aware of whether the Lieutenant Governor</p> <p>17 requested this designation of the Governor's office?</p> <p>18 A. Not aware.</p> <p>19 Q. Are you aware of any conversations about that</p> <p>20 topic between the Lieutenant Governor's office and the</p> <p>21 Governor's office related to the emergency designation</p> <p>22 of voter ID?</p> <p>23 A. I'm not aware.</p> <p>24 Q. Who would know the answer to that question?</p> <p>25 MR. SWEETEN: Objection calls for</p>



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1 speculation.  
 2 Q. (By MS. WESTFALL) Would Lieutenant Governor  
 3 Dewhurst?  
 4 A. If they existed he might.  
 5 Q. What were the consequences of this emergency  
 6 designation of voter ID?  
 7 A. Generally speaking, an emergency item -- an item  
 8 designated as an emergency by the Governor is exempted  
 9 from some of the normal procedural time lines and so you  
 10 can introduce it sooner and consider it sooner and pass  
 11 it sooner to address the emergency.  
 12 Q. What was the emergency?  
 13 MR. SWEETEN: The question would ask you to  
 14 reveal matters that are subject to legislative privilege  
 15 or conversations that would be subject to legislative  
 16 privilege, so don't answer to the extent you would have  
 17 to do so. You can refer to matters of the public  
 18 record.  
 19 A. I'm not aware of the grounds for the items that  
 20 he listed, the emergency items.  
 21 Q. (By MS. WESTFALL) Are you aware of any  
 22 conversations about the emergency nature of the need for  
 23 voter ID in the State of Texas in 2011?  
 24 MR. SWEETEN: Objection, asked and answered.  
 25 Q. (By MS. WESTFALL) You may answer.

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1 A. I'm not aware.  
 2 Q. Did you have any communications with Senator  
 3 Fraser's staff about the emergency designation?  
 4 MR. SWEETEN: Objection, asked and answered.  
 5 You can answer.  
 6 A. I'm sure I had conversations just in terms of how  
 7 it affected the timeline for introducing the bill and  
 8 passing it.  
 9 MR. SWEETEN: But don't reveal substance of  
 10 the communication. You can reveal whether a  
 11 communication occurred.  
 12 BY MS. WESTFALL:  
 13 Q. Would those conversations have been with  
 14 Ms. McCoy?  
 15 A. Yes.  
 16 Q. And do you believe anyone else was involved in  
 17 those communications besides Ms. McCoy?  
 18 A. I don't recall.  
 19 Q. Is there anything in the public record related to  
 20 the need or urgency or emergency nature of voter ID in  
 21 2011, that you're aware of?  
 22 A. What in the public record was evidence of an  
 23 emergency? I don't recall now.  
 24 Q. Are you familiar with the public record related  
 25 to SB 14?

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1 A. At committee hearing or in the newspapers, in the  
 2 State, nationally or when you say public record, what is  
 3 it that you're referring to?  
 4 Q. The public and legislative record related to SB  
 5 14.  
 6 A. So the debate between Senators and the Senate? I  
 7 don't recall if there was specific discussion or debate  
 8 on the Senate floor about whether it was an emergency or  
 9 not or why it might have been an emergency?  
 10 Q. And I was just -- I would ask you again, were you  
 11 as the person who was involved in the issue for  
 12 Lieutenant Governor, did you familiarity with the public  
 13 record and legislative history of Senate Bill 14, as a  
 14 general matter?  
 15 A. Sure.  
 16 Q. Could you mark this as US 78?  
 17 (Exhibit No. 78 was marked.)  
 18 Q. (By MS. WESTFALL) You've been handed what's been  
 19 marked US 78. Have you seen that document before?  
 20 A. Yes.  
 21 Q. What is it?  
 22 A. It is a letter from Lieutenant Governor Dewhurst,  
 23 in this case to Senator Birdwell, but I think it went to  
 24 the whole Senate saying that he intends to recognize  
 25 Senator Duncan to bring the Senate into a Committee of

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1 the whole to consider Senate Bill 14. And so appoints  
 2 Senator Duncan to chair that Committee.  
 3 Q. Why did Senator Duncan make a motion to resolving  
 4 the Senate to a Committee of the whole?  
 5 MR. SWEETEN: Objection. Calls for matters  
 6 of legislative privilege. Don't answer the question.  
 7 Q. (By MS. WESTFALL) Are you following the advice  
 8 of council?  
 9 A. Yes.  
 10 Q. Could Lieutenant Governor, himself, not make this  
 11 motion to resolve the Senate to a Committee of the  
 12 whole? It's a procedural question.  
 13 A. Procedurally under the senate rules I don't  
 14 believe the Lieutenant Governor can make that motion.  
 15 Q. And that is why Senator Duncan or any Senator  
 16 could have made this motion; is that correct?  
 17 A. I think that's right.  
 18 Q. And as chair of Committee of the whole, what  
 19 powers did Senator Duncan have under the rules?  
 20 MR. SWEETEN: She's asking you a matter of  
 21 public record and procedure. So you can answer it.  
 22 A. Right. My memory is that under the rules of  
 23 precedent and Senate procedure that you would have  
 24 similar role as when he was chairing his own State  
 25 Affairs Committee. He would preside procedurally

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1 recognizing members and so forth to debate.  
 2 Q. (By MS. WESTFALL) Who was the chair of the State  
 3 Affairs Committee in 2011?  
 4 A. Senator Duncan.  
 5 Q. And this also -- this letter from Mr. Dewhurst  
 6 also refers to a draft resolution concerning procedures,  
 7 do you see that?  
 8 A. Yes.  
 9 Q. And do you know whether the draft -- strike that.  
 10 What did the draft resolution regarding  
 11 procedures indicate, if you know?  
 12 MR. SWEETEN: You can testify if that's a  
 13 matter of the public record.  
 14 A. I believe it just outlined who would preside, the  
 15 general timing of the day, how amendments would be  
 16 handled, how witnesses would be handled, just procedural  
 17 nuts and bolts.  
 18 Q. (By MS. WESTFALL) Were those procedures adopted  
 19 and incorporated into the Senate journal?  
 20 A. I don't recall.  
 21 Q. Have those procedures been produced to us,  
 22 Mr. Sweeten, as part of this litigation?  
 23 MR. SWEETEN: I'm not sure even what you're  
 24 specifically talking about. If they're procedures that  
 25 are a matter of the public record -- can you tell me a

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1 little more about what you're asking for.  
 2 MS. WESTFALL: The procedures set forth in  
 3 the letter of January 20th, 2011, from David Dewhurst to  
 4 Senator Birdwell referred to in the exhibit we were just  
 5 discussing.  
 6 MR. SWEETEN: Are we talking about 13 rule  
 7 13--  
 8 MS. WESTFALL: The procedures for the  
 9 Committee of the whole. Do we have those? Have they  
 10 produced to us in this litigation, Mr. Sweeten?  
 11 MR. SWEETEN: I mean, is this something that  
 12 is part of the record?  
 13 MS. WESTFALL: That's what I'm examining the  
 14 witness on and he's uncertain. And --  
 15 MR. SWEETEN: Okay. Well, as you're asking  
 16 me this --  
 17 MS. WESTFALL: He's surprised that's there's  
 18 a privilege you can assert over procedures related to  
 19 the process of the Committee of the whole.  
 20 MR. SWEETEN: Nor am I trying to take that  
 21 position. I mean, one way or the other I'm not even --  
 22 you know, you're asking me, did we produce something --  
 23 MS. WESTFALL: Yes.  
 24 MR. SWEETEN: I mean, that first presupposes  
 25 that we were provided something or that someone had a

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1 duty to provide something. I mean, there's several  
 2 layers of analysis we must do before we're going to be  
 3 able to answer that question, but if you're asking if --  
 4 where we can start is, I can ask my folks back at the  
 5 office if such a thing exists. Whether we have it in  
 6 our production and we'll take it from there. I'm glad  
 7 to do that.  
 8 MS. WESTFALL: Thank you.  
 9 BY MS. WESTFALL:  
 10 Q. Do you know whether the procedures proposed in  
 11 this letter were adopted by the Senate?  
 12 A. I don't recall.  
 13 Q. Do you know anything about procedures or could  
 14 you describe them?  
 15 A. My memory, again, is that there's a president of  
 16 Senate going into the Committee of the whole. My guess  
 17 is that they were just parallel to what had been done  
 18 before, but I don't recall.  
 19 Q. Thank you for your testimony.  
 20 Could you mark this as US 79?  
 21 (Exhibit No. 79.)  
 22 Q. (By MS. WESTFALL) You've been handed what's been  
 23 marked as US 79. Do you recognize this document?  
 24 A. It is a press release from Lieutenant Governor's  
 25 Dewhurst office regarding Governor Perry's emergency

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1 call.  
 2 Q. Have you seen it before today?  
 3 A. I probably read it when it came out.  
 4 Q. And do you see that it's dated January 20, 2010?  
 5 A. Yes.  
 6 Q. Do you think that's an error and it should be  
 7 2011?  
 8 A. Yeah, probably.  
 9 Q. Do you see in the last paragraph it reads, Texans  
 10 have fought and died for the principal of one person,  
 11 one vote?  
 12 A. Yes.  
 13 Q. Can you explain what is meant by the need to  
 14 uphold the principal of one person, one vote?  
 15 MR. SWEETEN: You can answer the question to  
 16 the extent it doesn't ask you to reveal communications  
 17 you had with Lieutenant Governor Dewhurst, legislatures  
 18 legislative staff, or that it doesn't require you to  
 19 reveal thoughts, mental impressions, opinions about the  
 20 legislative session. You can answer to the extent you  
 21 are not providing information that is within that  
 22 privilege.  
 23 A. I think it just means what it says. One person  
 24 one vote, as a tenant of voting in the United States and  
 25 I don't know what else asking.

<p style="text-align: center;">245</p> <p>1 Q. (By MS. WESTFALL) Was there any threat to the</p> <p>2 principal of one person, one vote that voter ID was</p> <p>3 intended to remedy?</p> <p>4 MR. SWEETEN: You're asking him to reveal</p> <p>5 thoughts, mental impressions, opinions about furtherance</p> <p>6 of the legislation process and/or conversations that</p> <p>7 we've discussed previously. So to that extent I'm going</p> <p>8 to the object based on legislative privilege.</p> <p>9 Q. (By MS. WESTFALL) You following your counsel's</p> <p>10 advice?</p> <p>11 A. Yes.</p> <p>12 Q. Do you see it also states in that paragraph that</p> <p>13 there's a need to uphold the integrity of elections?</p> <p>14 A. Yes.</p> <p>15 Q. What was the basis for that statement?</p> <p>16 MR. SWEETEN: Same objection. The question</p> <p>17 asks you to reveal thoughts, mental impressions,</p> <p>18 opinions, about legislation or furtherance of the</p> <p>19 legislative process or communications. So don't answer</p> <p>20 to the extent that you would have to do so in answering</p> <p>21 that question. You can answer it based on the public</p> <p>22 record matters that are not subject to legislative</p> <p>23 privilege, you can do so.</p> <p>24 A. Right. I mean, it means what it says on its</p> <p>25 face. I mean, during the debate of the bill on the</p>	<p style="text-align: center;">247</p> <p>1 intended to be remedied by Senate Bill 14?</p> <p>2 A. Again, from the public record, I recall evidence</p> <p>3 and discussion of the types of fraud that were being</p> <p>4 committed in Texas and other states, I don't have those</p> <p>5 specific numbers on my fingertips.</p> <p>6 Q. And was notice to Senators of the convening of</p> <p>7 the Committee of the whole upheld within four days</p> <p>8 notice from the time Senators were notified to when the</p> <p>9 Committee was convened, do you recall that?</p> <p>10 A. I don't recall the number of days.</p> <p>11 Q. Bear with me one minute. Could you mark this.</p> <p>12 (Exhibit No. 80 was marked.)</p> <p>13 Q. (By MS. WESTFALL) You've been handed what's been</p> <p>14 marked US 80. Do you recognize this document?</p> <p>15 A. It appears to be a letter from Senator Van</p> <p>16 DePutte to Senator Duncan.</p> <p>17 Q. Have you seen this before?</p> <p>18 A. I believe, yes, when it came out I saw it.</p> <p>19 Q. Do you see that it issues a complaint about short</p> <p>20 notice on convening of the Committee of the whole</p> <p>21 executed by the Lieutenant Governor, on Page 1 of this</p> <p>22 document?</p> <p>23 A. The second paragraph, yes.</p> <p>24 Q. Were you aware at the time of the relatively</p> <p>25 short notice that the convening of the Committee of the</p>
<p style="text-align: center;">246</p> <p>1 Senate floor there was a lot of discussion about</p> <p>2 ensuring the integrity of the elections.</p> <p>3 Q. (By MS. WESTFALL) But what was the need to</p> <p>4 ensure? Was there a threat to the integrity of</p> <p>5 elections that this bill was intended to address?</p> <p>6 MR. SWEETEN: Same objection. You're asking</p> <p>7 him about the intent of the bill and what it was</p> <p>8 intended to address that impacts matters of legislative.</p> <p>9 Therefore, I'm instructing him not the answer to the</p> <p>10 extent it would reveal matters of legislative privilege.</p> <p>11 Q. (By MS. WESTFALL) Are you following the advice</p> <p>12 of council?</p> <p>13 A. Yes.</p> <p>14 MR. SWEETEN: You can reveal matters of the</p> <p>15 public record.</p> <p>16 Q. (By MS. WESTFALL) Do you have any testimony</p> <p>17 related to the public record on any threats to the</p> <p>18 integrity of the elections that necessitated the need</p> <p>19 for voter ID?</p> <p>20 A. My memory is just that, you know, the debate</p> <p>21 among Senators was that there were threats. There was</p> <p>22 election fraud that existed and this was a tool to</p> <p>23 combat that.</p> <p>24 Q. Do you have any specific information about fraud</p> <p>25 that was referenced in the public record that was</p>	<p style="text-align: center;">248</p> <p>1 whole?</p> <p>2 MR. SWEETEN: Objection, asked and answered</p> <p>3 He's already said.</p> <p>4 Q. (By MS. WESTFALL) You may answer.</p> <p>5 A. Again, I don't recall specific discussions about</p> <p>6 this.</p> <p>7 Q. Are you aware that the notice was given to</p> <p>8 Senators by slipping a note under the door after hours</p> <p>9 on Thursday night before the Committee was convened?</p> <p>10 A. I don't know that it was to use the letter's</p> <p>11 language literally slipped under most office doors.</p> <p>12 Q. Was the notice provided after hours on Thursday</p> <p>13 of the convening of the Committee of the whole the next</p> <p>14 week?</p> <p>15 A. I don't know what time it was delivered to each</p> <p>16 Senator.</p> <p>17 Q. Was it delivered on Thursday before the convening</p> <p>18 on Monday?</p> <p>19 MR. SWEETEN: Objection, asked and answered</p> <p>20 A. Yeah. Again, probably, but I'm not sure of the</p> <p>21 exact time.</p> <p>22 Q. (By MS. WESTFALL) Are you aware of any</p> <p>23 conversations about perceived exclusion of members of</p> <p>24 the Senate representing minority voters from the debate</p> <p>25 on Senate Bill 14?</p>

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1 MR. SWEETEN: You can answer the question.  
2 Don't reveal matters subject to legislative privilege  
3 including communications. You can answer to the extent  
4 you're not doing so.

5 A. I think there was some, again, in the public  
6 debate on the bill I think some Senators made some more  
7 statements.

8 Q. (By MS. WESTFALL) And who would know exactly  
9 when the Lieutenant Governor gave notice to all members  
10 of the convening of the Committee of the whole?

11 A. I don't know who would have hand delivered the  
12 letter.

13 Q. The Lieutenant Governor, himself, would know,  
14 correct?

15 A. He probably did not hand deliver the letter  
16 personally.

17 Q. He probably did not hand deliver it, but he  
18 directed the letter to be sent to the Senators, correct?

19 A. Yes, presumably.

20 Q. Could you mark this.

21 (Exhibit No. 81 was marked.)

22 Q. (By MS. WESTFALL) Can you show the witness.

23 MR. SWEETEN: Guess you better get one over  
24 to me.

25 MS. WESTFALL: I won't answer that question.

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1 MS. WESTFALL: Mr. Sweeten, I'm going to ask  
2 him a series of questions about the text of the bill. I  
3 am not intending to invade the privilege that you have  
4 been asserting to that.

5 MR. SWEETEN: Then I don't object at this  
6 time.

7 MS. WESTFALL: Very good. Very good.

8 A. There's a difference of the forms of  
9 identification that are acceptable.

10 BY MS. WESTFALL:

11 Q. Could you describe those?

12 A. Sure. Senate bill 362 has a slightly longer list  
13 of photo IDs that are acceptable and it allowed  
14 non-photo ID at the polling place and Senate Bill 14  
15 requires photo ID. And Senate 14 implements a longer  
16 explanation and procedure for people who are exempted  
17 from the photo ID requirement. Those seem to be the  
18 major differences.

19 Q. And many previous iterations of the bill before  
20 Senate Bill 14 was filed. It allowed use of a driver's  
21 license that had not expired more than 2 years before,  
22 correct? And Senate Bill 14 reduced that time to  
23 60 days; is that correct?

24 A. I would have to look at the final version of the  
25 draft. Senate Bill 14 in front of me it just says a not

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1 MR. SWEETEN: Objection.

2 Q. (By MS. WESTFALL) You've been handed what's been  
3 marked as US 81. Do you recognize this document.

4 A. It is some version of Senate Bill 14.

5 Q. If you look at the notation at the bottom of the  
6 exhibit, does that indicate that this is the version of  
7 the bill as filed?

8 A. It doesn't indicate that. I would need to see --  
9 the file version will have a stamp from the Clerk's  
10 office. I don't know if this is the final version or  
11 what.

12 Q. Can you look at the last page of Exhibit 81 and  
13 you see there's -- this is certainly not the engrossed  
14 version of the bill, correct?

15 A. Correct.

16 Q. Are you familiar with the provisions of Senate  
17 Bill 14?

18 A. Yes.

19 Q. Could you describe the differences between Senate  
20 Bill 362, about which you testified extensively and  
21 Senate Bill 14?

22 MR. SWEETEN: If you're asking him about the  
23 differences on the text he can do so, but if you're  
24 asking him about his thoughts, opinions about the  
25 legislation, then, I would object to that.

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1 expired driver license. And I can't remember the final  
2 number from the final draft.

3 Q. Could you mark this as US Exhibit 5, please?

4 (US Exhibit No. 5 was marked.)

5 Q. (By MS. WESTFALL) You've been handed what's been  
6 previously marked as US Exhibit 5. Do you recognize  
7 this document?

8 A. Yes, this is the SB 14.

9 Q. Yes. And is this the version that was engrossed?

10 A. Yes, this appears to be that version.

11 Q. Turning your attention to Page 9, where it list  
12 the form of ID. Do you see that?

13 A. Uh-huh.

14 Q. And do you see that with regard to driver's  
15 licenses that they expire no earlier than 60 days before  
16 presentation; is that correct?

17 A. Yes.

18 Q. Would you characterize this on the face of the  
19 Senate Bill 326 and Senate Bill 14 as having major  
20 changes between the two bills?

21 A. There are changes between the two bills, yes.

22 Q. And was it a significant change, in your view, to  
23 have removed non-photo ID as a form of ID? Just on the  
24 face of the bills?

25 MR. SWEETEN: You're asking for his opinions

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1 about legislation. You know, I don't have a problem if  
2 you ask him a period of the text, but I think if you're  
3 asking him these major changes and certainly qualitative  
4 issues then I think that you're getting into legislative  
5 privilege.

6 MS. WESTFALL: As he's sitting today he  
7 can't testify based on his expertise of drafting, based  
8 on his expertise of election law? How does that relate  
9 to a legislative --

10 MR. SWEETEN: Okay. If that's your question  
11 and you're not asking him to discuss matters for  
12 example, information he heard from communication or his  
13 mental impressions that he had, you know, as these bills  
14 were proceeding, then he can answer as he's sitting here  
15 today, if that's your question.

16 BY MS. WESTFALL:

17 Q. Sitting here today, is it a significant change  
18 between Senate Bill 362 an Senate Bill 14 in terms of  
19 the forms ID allowable?

20 A. Yes.

21 Q. And is that in part because Senate Bill 14 no  
22 longer allows the use of non-photo ID; is that correct?

23 A. Yeah. I think that's the significant difference.

24 Q. Are there any other significant differences other  
25 than that?

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1 A. I think the SB 14's addition of expansion of the  
2 ways in which provisional ballots can be counted for  
3 those people who don't have ID is also significant.

4 Q. And how is that based on the face of the bill?

5 A. I think under 362 the provisional ballot system  
6 stayed essentially the same. And then SB 14 the  
7 provisional ballot system is expanded to clarify which  
8 persons -- to include a class of people who can still  
9 cast a ballot even without photo ID. And I'm looking  
10 for that now.

11 Also, SB 14 creates a new election identification  
12 certificate.

13 Q. Are there any other major differences that you're  
14 aware of between the two bills?

15 A. Glancing at the math I think those are the big  
16 ones.

17 Q. Thank you for your testimony.

18 Were you involved in developing Senate Bill 14?

19 MR. SWEETEN: Objection, to the form.  
20 Objection, vague. Also don't reveal information that's  
21 subject to the legislative privileges including your  
22 thoughts or opinions or your communications with  
23 individuals. Those are subject to legislative  
24 privileges. Also, don't reveal attorney/client  
25 privileges between you and other members of the

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1 Lieutenant Governor's staff.

2 A. Yes, I was involved with Senate Bill 14.

3  
4 Q. (By MS. WESTFALL) Were you involved in the  
5 drafting analysis of Senate Bill 14?

6 MR. SWEETEN: Objection, compound. Also,  
7 don't reveal your thoughts and mental impressions or  
8 communications regarding this bill.

9 A. Yes.

10 Q. (By MS. WESTFALL) Were you involved in the  
11 drafting of Senate Bill 14?

12 A. Yes.

13 Q. Were you involved in analysis of Senate Bill 14?

14 A. Yes.

15 Q. When did you start drafting Senate Bill 14?

16 A. I don't recall when I first started drafting it.  
17 To the extent -- I don't remember when I first  
18 contributed to the draft.

19 Q. Do you remember when anyone first started  
20 drafting Senate Bill 14?

21 A. No. I don't remember the particular date.

22 Q. Was it after SB 362 failed?

23 A. Probably.

24 Q. Shortly after?

25 A. My memory is that was not shortly after, but just

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1 sometime after when the next session was rolling around  
2 is when you would introduce legislation.

3 Q. Was the drafting of Senate Bill 14 started in  
4 earnest after the November 2010 elections?

5 MR. SWEETEN: Objection, asked and answered.

6 A. I don't know when exactly.

7 Q. (By MS. WESTFALL) When did -- when did your role  
8 in drafting Senate Bill 14 start?

9 A. My role had been for several years at that point.  
10 So I don't -- I don't know that there was a time at  
11 which we sat and drafted this thing and, you know, had  
12 it filed. So again, it was a process, not a day when we  
13 sat down and rolled up our sleeve.

14 Q. Do you recall when your involvement in that  
15 process, you just described, started with regard to this  
16 particular bill?

17 A. I don't remember particulars or start date.

18 Q. Who would know when that process started in your  
19 office?

20 MR. SWEETEN: Objection, calls for  
21 speculation.

22 Q. (By MS. WESTFALL) You may answer.

23 A. I think you would have to ask the sponsor of the  
24 bill when they started it.

25 Q. And when you started working on the drafting of

<p style="text-align: center;">257</p> <p>1 Senate Bill 14, whenever that occurred, were there any</p> <p>2 source that you consulted with?</p> <p>3 MR. SWEETEN: That calls for matters that</p> <p>4 are subject to the legislative privileges. Don't reveal</p> <p>5 thoughts, mental impressions, opinions about legislation</p> <p>6 or furtherance of the legislation process that includes</p> <p>7 your thought processes. That is subject to legislative</p> <p>8 privilege, objection. Instruct not to answer.</p> <p>9 Q. (By MS. WESTFALL) Are you following the advice</p> <p>10 of your council?</p> <p>11 A. Yes.</p> <p>12 Q. Did you look at any models from any interest</p> <p>13 group?</p> <p>14 MR. SWEETEN: Same objection.</p> <p>15 Q. (By MS. WESTFALL) Are you following the advice</p> <p>16 of your council?</p> <p>17 A. Yes.</p> <p>18 Q. So it's your -- okay.</p> <p>19 Did you look at any other States photo ID's laws</p> <p>20 in drafting Senate Bill 14?</p> <p>21 MR. SWEETEN: Once again, you're asking for</p> <p>22 his mental impressions, his thought processes regarding</p> <p>23 the legislation. That is subject to the legislative</p> <p>24 privilege.</p> <p>25 MS. WESTFALL: Are you instructing him not</p>	<p style="text-align: center;">259</p> <p>1 introduced, have you listed everybody who was involved</p> <p>2 in drafting?</p> <p>3 A. I think so.</p> <p>4 Q. Did you have any communications about SB 14 with</p> <p>5 any current or former legislatures or staff who had</p> <p>6 offered or introduced past photo ID bills?</p> <p>7 A. Did I communicate with members or staff from '09</p> <p>8 or '07 about the '11 bill.</p> <p>9 Q. Or '05?</p> <p>10 A. I don't think so.</p> <p>11 MR. SWEETEN: Elizabeth, can we get to a</p> <p>12 point of a break pretty quickly here.</p> <p>13 MR. WESTFALL: Sure. Why don't we break</p> <p>14 now.</p> <p>15 MR. SWEETEN: Sounds good.</p> <p>16 (Brief recess.)</p> <p>17 BY MS. WESTFALL:</p> <p>18 Q. Let's go back on the record. I want to turn your</p> <p>19 attention back to Exhibit 78, the letter from</p> <p>20 Mr. Dewhurst to Senator Birdwell. Could you look at</p> <p>21 maybe a copy of your counsel's? Do you see at the</p> <p>22 bottom it says DD colon E G?</p> <p>23 A. Yes.</p> <p>24 Q. Is the DD, David Dewhurst?</p> <p>25 A. I don't know.</p>
<p style="text-align: center;">258</p> <p>1 to answer?</p> <p>2 MR. SWEETEN: I am. Unless you can</p> <p>3 answer -- hold on one second. Unless you can answer</p> <p>4 without revealing matters that are subject to the</p> <p>5 legislative privilege.</p> <p>6 A. There may have been discussion and testimony</p> <p>7 about other states. Otherwise, I would assert the</p> <p>8 privilege.</p> <p>9 BY MS. WESTFALL:</p> <p>10 Q. Who else besides you was involved in drafting</p> <p>11 Senate Bill 14?</p> <p>12 A. I believe Janice McCoy and Legislative Council</p> <p>13 attorneys. Probably Jennifer Jackson is all I know for</p> <p>14 sure.</p> <p>15 Q. Jennifer Jackson was with the State Affairs</p> <p>16 Committee?</p> <p>17 A. No. She was -- Jennifer Jackson was the</p> <p>18 legislative council attorney.</p> <p>19 Q. Thank you.</p> <p>20 Anybody else you can think of involved in the</p> <p>21 drafting?</p> <p>22 A. Again, there may have been amendments offered or</p> <p>23 the floor that were drafted by other people, I don't</p> <p>24 know.</p> <p>25 Q. But just as to the body of the bill that was</p>	<p style="text-align: center;">260</p> <p>1 Q. And who is the EG, do you know whose initials</p> <p>2 those are, who would have been copied on this letter?</p> <p>3 A. I don't know that those -- I don't know what</p> <p>4 those letters mean.</p> <p>5 Q. Do you know anyone who's first name --</p> <p>6 A. There's also a David Duran at the Governor's</p> <p>7 office. That's probably not his initials, but the point</p> <p>8 being I don't know.</p> <p>9 Q. Who is Elaine Gonzales?</p> <p>10 A. She the -- I don't know her title. Office</p> <p>11 manager assistant to Governor Dewhurst, et cetera.</p> <p>12 Q. Thank you.</p> <p>13 MR. SWEETEN: By the way, Elizabeth I want</p> <p>14 to go ahead on the record and tell you that we have</p> <p>15 produced what you asked earlier about the draft</p> <p>16 resolution outlining the procedures of the Committee as</p> <p>17 a whole. On Page 60 of the Senate journal dated 1/24/11</p> <p>18 and that has been produced I'm told.</p> <p>19 MS. WESTFALL: Fantastic. Thank you.</p> <p>20 MR. SWEETEN: That seemed very helpful to</p> <p>21 you.</p> <p>22 MR. ROSENBERG: Have we decided is that</p> <p>23 going to happen tomorrow or not, do we know? I'm just</p> <p>24 trying to tell my other people.</p> <p>25 (Discussion off the record.)</p>



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1 BY MS. WESTFALL:

2 Q. So we will go back on the record.

3 Are you aware of any communications with any of  
4 firms or any legislatures from any other States about S  
5 B 14?

6 A. Yes.

7 MR. SWEETEN: You can answer if you're aware  
8 of.

9 A. Yes.

10 Q. (By Ms. Westfall) And who are those individuals?

11 A. About SB 14?

12 Q. Yes.

13 A. There would have been communications with  
14 individual and elections official and I forget his name.  
15 I believe he testified in the hearing. That's all I  
16 know for sure.17 Q. Did you have any communications with any official  
18 in Georgia?19 A. That's what I'm trying to remember. I cannot  
20 recall for sure.21 Q. How many conversations did you have with  
22 officials in Indiana? Or how many communications are  
23 you aware of with officials in Indiana?24 A. There would have been a handful. And again, I  
25 only had one or two conversations, communications. I

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1 anyone in your office had communications with any group  
2 representing minority voters?3 MR. SWEETEN: Hold on a minute. You can  
4 answer as to the subject matter as phrased. Whether you  
5 had communications that's fine.6 A. I'm trying to keep straight SB 146789 there are  
7 groups that made their opinions on voter identification  
8 in general for and against. I would say I probably had  
9 indirect communications, meaning some sort of  
10 constituent letter or e-mail or conversation in a  
11 meeting. I'm sure that happened with group from both  
12 sides, including minority workers case.13 Q. Do you recall any with regard to Senate Bill 14  
14 in particular?15 A. I believe in the public testimony there were  
16 testimony from MALDEF and NAACP and maybe LULAC17 Q. Were there any meetings involving anyone from  
18 Lieutenant Governor's office with any of those group  
19 related to SB 14?20 A. I would say we didn't have meetings with interest  
21 group.

22 Q. Pardon?

23 A. We didn't have meetings with interest group as  
24 you described them. We met with anyone who wanted to  
25 have a meet?

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1 shouldn't say conversation.

2 Q. Was anyone else involved in those communications?

3 A. I believe Janus McCoy lined up that witness or  
4 the hearing.

5 Q. Were the communications regarding the hearing?

6 A. I don't know everything they talked about, but  
7 anything they I'm aware of it was about the hear.8 Q. You were a party to these conversations; is that  
9 right?

10 A. Yes.

11 Q. And can you tell me the general nature of the  
12 communications?13 A. Before the hearing it was, can you come down and  
14 share your experience in Indiana. And then the day of  
15 the hearing it was more sort of pleasantries, welcome to  
16 Texas, if you need something, explaining procedurally  
17 how the Senate works and so forth.18 Q. Did you have any other communications with those  
19 officials?

20 A. Not that I recall.

21 Q. Did you have any communications about SB 14 with  
22 any interest group?23 A. Other than there were people that testified in  
24 the original hearing. I can't remember specific group.

25 Q. Do you remember whether you had communications of

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1 Q. Did you or the Lieutenant Governor exchange  
2 drafts with Senate Bill 14 with anybody?

3 MR. SWEETEN: Objection, compound.

4 A. Drafts of Senate Bill 14 I would have only  
5 exchanged with Lieutenant Governor's staff and the  
6 people I mentioned so far, the staff I mentioned so far.

7 Q. (By MS. WESTFALL) That is Ms. McCoy?

8 A. Correct.

9 Q. Ms. Jackson?

10 A. Correct.

11 Q. Anybody else?

12 A. Not that I recall.

13 Q. In drafting Senate Bill 14 did the Lieutenant  
14 Governor or anyone in his office review any reports or  
15 studies?16 MR. SWEETEN: I'm going to object based upon  
17 legislator privilege. You're asking for mental  
18 impressions, thought processes related to pending  
19 legislation and that is a matter that is subject to  
20 legislative privilege as well as the deliberative  
21 process privilege.22 Q. (By Ms. Westfall) Do you have any testimony in  
23 response to my question?

24 A. I'll assert the privilege.

25 Q. Did you consider including any forms of

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1 additional ID in Senate Bill 14?

2 MR. SWEETEN: Same objection. Do not reveal

3 any thoughts, communications or privileged

4 communications as we went over in legislative privilege.

5 A. In the Senate Committee there was discussion of

6 previous drafts there was discussion of potential

7 amendments there was a lot of discussion.

8 Q. (By MS. WESTFALL) And other than that, you're

9 asserting privilege in response to that answer?

10 A. Correct.

11 Q. Are you aware of any analysis that was conducted

12 regarding how many registered voters possessed the

13 required forms of ID under S B 14?

14 MR. SWEETEN: Don't reveal thoughts, mental

15 impressions, or opinions about legislative for further

16 answer of the legislative process and don't reveal

17 communications. You can refer to matters in the public

18 matter with respect to this question.

19 A. Again, there was discussion in the public hearing

20 about the impact it would have on vote something

21 general, particular communities specifically regarding

22 internal communications. I'll assert the privilege.

23 Q. (By MS. WESTFALL) Thank you. Are you aware of

24 any analysis to determine if minority voters would be

25 disproportionately less likely to possess the additional

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1 forms or ID allowed under SB 14?

2 MR. SWEETEN: Same objection. The question

3 asks you to reveal thoughts, mental impression, opinions

4 about legislations, rules, the potential communications

5 with State Agencies, State Legislative Staff,

6 Legislators, Legislative Council, therefore it'd be

7 legislatively privileged. It also invades deliberative

8 process of privilege, therefore I'm instructing you not

9 to answer.

10 A. Again, to the extent -- my answer would involve

11 internal communications. I would assert the privilege.

12 But again in public -- in the testimony publicly, there

13 was a discussion I recall about how this would impact --

14 I mean, what percentages of different communities might

15 have or not have the identification. And I believe that

16 was from the Secretary of State's office and from

17 Senators.

18 MS. WESTFALL: What is the final -- what is

19 the decision that you're asserting with regard to

20 deliberative process privilege with regard to these

21 communications?

22 MR. SWEETEN: Well, first of all, I am

23 honestly relying upon the legislative privilege.

24 However with respect to their deliberations with respect

25 to Senate Bill 14, I'm referring to that. Those would

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1 be subject to the privilege.

2 MS. WESTFALL: Those are deliberations. But

3 what was the decision since Lieutenant Governor Dewhurst

4 did not ultimately vote on Senate Bill 14; is that

5 correct? So what is the decision that you are asserting

6 deliberative process over?

7 MR. SWEETEN: As to decisions with respect

8 to any procedural aspect of the bill, the decisions that

9 they reviewed, that the processes were formulated -- so

10 it would be as to their actions with respect to the bill

11 --

12 MS. WESTFALL: So that's --

13 MR. SWEETEN: In addition to the legislative

14 privilege.

15 MS. WESTFALL: I understand you're asserting

16 legislative privilege. I'm going to ask you to withdraw

17 deliberative process privilege because I'm not -- unless

18 there's something else that you need to add on this

19 topic -- I'm not understanding what the decision is that

20 relates to these communications since the Lieutenant

21 Governor did not vote on this legislation he was

22 actively involved.

23 MR. SWEETEN: He was also involved in the

24 Committee-of-the-Whole hearing. It reflects the give

25 and take of the consultative process, which is something

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1 that the court has recognized as being subject to the

2 deliberative process privilege.

3 MS. WESTFALL: It's certainly deliberative,

4 but the court certainly had concerns about the

5 privileged logs produced previously and their failure to

6 identify the decision at issue. So I would ask you to

7 identify on the record what the decision is or to

8 withdraw your privilege instruction based on

9 deliberative process.

10 MR. SWEETEN: I think I have been clear.

11 We're talking about the Committee-of-the-Whole -- of the

12 whole process with respect to decisions about that

13 process, with respect to his role in that process, with

14 respect his role -- any role that he had with the Senate

15 Bill 14 legislation. I think that that all -- those all

16 would be matters that are covered in addition to the

17 fact that I'm asserting legislative privilege.

18 MS. WESTFALL: I understand the assertion of

19 legislative privilege. We have plenty of testimony from

20 this witness that -- and it's clear from the face of the

21 Senate rules that the Lieutenant Governor is not able to

22 introduce legislation. What I'm examining this witness

23 on right now is about his participation in drafting

24 Senate Bill 14 so I do not believe that deliberative

25 process privilege is an appropriate privilege to be

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1 interposing with regard to these questions. I ask you  
2 withdraw that privilege. If you want to assert  
3 legislative privilege, go ahead and do so, but not  
4 deliberative process.

5 MR. SWEETEN: I've made my objections.

6 Q. (BY MS. WESTFALL) Ms. McCoy testified in  
7 deposition in this case that there were no studies at  
8 all about the analysis of who has and ID the for  
9 purposes of Senate Bill 14, either public or private  
10 studies.

11 A. Studies of -- I'm sorry, Texas?

12 MR. SWEETEN: Let her ask her question.

13 Q. Ms. McCoy testified in deposition in this case  
14 that there are no studies at all about any analysis of  
15 who has and ID for purposes of Senate Bill 14, you know,  
16 either public or private studies. Do you agree with her  
17 testimony?

18 MR. SWEETEN: In answering the question  
19 don't reveal your thoughts, mental processes, opinions  
20 about legislation or in furtherance of the legislative  
21 process that would be legislatively privileged. Don't  
22 reveal the communications that we previously outlined in  
23 answering the question. So to the extent you can answer  
24 it without revealing those, you can go ahead and do so.  
25 Otherwise objection privileged.

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1 A. The question is, are there studies about Texas  
2 voters?

3 Q. (By MS. WESTFALL) Correct.

4 A. Okay. I think that's correct. I don't remember  
5 for sure.

6 Q. Do you know what a citizenship certificate is?

7 A. My understanding was that it's -- it's just that,  
8 it's a certificate issued for various states of presence  
9 in that state.

10 Q. Do you know how much it costs to obtain one?

11 A. I don't recall.

12 Q. Do you know how much it would cost if you had one  
13 and you need to replace it?

14 A. I don't recall.

15 Q. Do you know how long it would take to get a  
16 replacement citizenship certificate?

17 A. I don't recall.

18 Q. Do you know how much it cost to obtain a U.S.  
19 passport?

20 A. I don't know exactly.

21 Q. Do you know approximately?

22 A. I think it's about -- there's a different price  
23 for expedited versus regular. I want to say it's  
24 \$60-something for the regular and then \$100 for an  
25 expedited-ish.

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1 Q. Do you know what documents you need to have to  
2 get a U.S. Passport?

3 A. I don't know the full list. I know birth  
4 certificate, driver's license, those sorts of documents.  
5 I don't know the full list.

6 Q. Do you know how long it takes to get a U.S.  
7 passport?

8 A. I don't recall.

9 Q. Do you recall any conversations about not  
10 including the non-photo forms of ID in Senate Bill 14 as  
11 was permitted under Senate Bill 362?

12 MR. SWEETEN: You can reveal whether or not  
13 a conversation occurred on general subject matter, but  
14 don't reveal the substance of the specific conversation.

15 A. Yeah. I don't recall specific conversations.  
16 But I think we discussed the forms of ID.

17 Q. (By MS. WESTFALL) What was the purpose of  
18 excluding non-photo forms of ID as allowable in Senate  
19 Bill 14?

20 MR. SWEETEN: Don't reveal your thoughts,  
21 mental impressions, or opinions about legislation or  
22 furtherance of the legislative process, or  
23 communications to legislative privilege.

24 A. I'll assert privilege.

25 Q. You'll assert privilege. Are there any changes

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1 that occurred in the state of election administration in  
2 Texas or otherwise between 2009 and 2011 that made these  
3 forms of identification unacceptable and not proving  
4 one's identity under Senate Bill 14?

5 MR. SWEETEN: The question asks you to  
6 reveal mental impressions, opinions, and furtherance of  
7 the legislation. Therefore -- and also potentially  
8 conversations that are privileged -- and therefore I'm  
9 asserting legislative privilege. I instruct you not to  
10 answer.

11 Q. (By MS. WESTFALL) Are you following the advice  
12 of council?

13 A. Yes.

14 Q. Can you -- do you know anything about the  
15 circumstances under which the license to carry a  
16 concealed handgun was included as a form of photo ID in  
17 Senate Bill 14?

18 MR. SWEETEN: Same objection. Instruct you  
19 not to answer except for as to matters on the public  
20 record.

21 Q. (By MS. WESTFALL) Are you following advice of  
22 council?

23 A. Yes.

24 Q. Do you know why Senate Bill 14 or what the  
25 purpose was in not including Student IDs in the bill?

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1 MR. SWEETEN: You can answer questions per  
 2 the court order about the general purpose of Senate Bill  
 3 14. However don't reveal thoughts, mental impressions  
 4 that would be subject to the legislative privilege or  
 5 the subjective intent of the legislator.  
 6 A. I believe -- my memory is there may have been  
 7 some public debate about that issue during the Committee  
 8 hearing, but I don't remember the exact nature of it.  
 9 Q. (By MS. WESTFALL) Are you aware of any  
 10 conversations about the removal of Student IDs an  
 11 allowable form of ID from Senate Bill 14 and it's impact  
 12 on students at historically black colleges in Texas?  
 13 MR. SWEETEN: Objection. You're asking him  
 14 to reveal thoughts, mental impressions, or opinions,  
 15 about legislation or conversations that he had with  
 16 legislators, legislative staff, state agencies, or Texas  
 17 Legislative Council. As such, the question that you're  
 18 asking imposed is subject to the legislative privilege.  
 19 If you want to ask a more general and have a general  
 20 topical subject matter description, you know, I'll let  
 21 him answer that as I have all day. But as to the way  
 22 you've asked that question you're asking for very  
 23 specific conversation.  
 24 Q. (By MS. WESTFALL) Are you following the advice  
 25 of council?

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1 A. Yes.  
 2 Q. Are you aware of any conversations, public or  
 3 private, concerning voter ID bills and historically  
 4 black colleges in Texas?  
 5 MR. SWEETEN: I think we are a little beyond  
 6 general subject matter, but I'll let him answer if he's  
 7 aware of such conversations.  
 8 A. I'm not aware.  
 9 Q. How did the exception for individuals with  
 10 disabilities come to be included in Senate Bill 14?  
 11 MR. SWEETEN: That's a matter subject to  
 12 legislative privilege and I instruct you not to answer.  
 13 Q. (By Ms. Westfall) Are you following the advice of  
 14 council?  
 15 A. Yes.  
 16 Q. Could you describe, on the basis of the face of  
 17 the statute, the provisions in the bill pertaining to  
 18 the administration of the ID requirements at the polls  
 19 and how poll workers would determine whether the ID was  
 20 sufficient?  
 21 MR. SWEETEN: The question -- since the  
 22 question is confined to the texts of the bill, you can  
 23 answer.  
 24 A. Section 6 of the bill, at the bottom of Page 3,  
 25 looks like it requires training standards for election

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1 workers to include provisions on acceptance and handling  
 2 of identification.  
 3 Q. (By MS. WESTFALL) Does the bill essentially  
 4 leave it to the Secretary of State to call and get  
 5 regulations on this -- not regulations, but guidelines?  
 6 A. I believe the amended section of law here are  
 7 standards adopted by the Secretary of State.  
 8 Q. Do you think the key to success of this bill,  
 9 Senate Bill 14, is the administration of the polls and  
 10 for poll workers to understand how they determine a  
 11 voter's identity?  
 12 MR. SWEETEN: Her question is asking you to  
 13 reveal thoughts, mental impressions, and opinions and  
 14 legislation, therefore it's matter subject to the  
 15 legislator privilege.  
 16 Q. (By MS. WESTFALL) Are you following the advice  
 17 of council?  
 18 A. Yes.  
 19 Q. Can you describe the provisions in Senate Bill  
 20 14, based on the face of the bill, concerning the  
 21 Election Identification Certificate?  
 22 A. The Election Identification Certificate on Page  
 23 13 requires, I believe it's DPS, Department of Public  
 24 Safety, to issue these cards to persons if they are a  
 25 registered voter in the State and eligible for

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1 registration. It provides they cannot collect a fee for  
 2 that certificate, or for a duplicate certificate, or any  
 3 replacement. It says it can only be used for election  
 4 purposes and not for as a personal identification  
 5 certificate. It provides election officers have to  
 6 accept that election ID as a valid form of  
 7 identification proof. It says the election ID should be  
 8 similar to but distinguishable from the Driver's  
 9 License. It requires provision of certain documents or  
 10 information to get the ID. It allows the department to  
 11 decide when those certificates or identification cards  
 12 expire, except that once you reach 70 years of age, it  
 13 doesn't expire.  
 14 Q. Was this provision related to election  
 15 identification certificates in the bill as filed first?  
 16 A. My memory is that it was not filed.  
 17 MS. WESTFALL: Let the record reflect the  
 18 witness is turning to Exhibit 81 or looking for  
 19 Exhibit 81.  
 20 MR. SWEETEN: Caution the witness to review  
 21 Exhibit 81, the prior version of the bill.  
 22 MS. WESTFALL: It's actually the filed  
 23 version of the bill.  
 24 THE WITNESS: Election Identification  
 25 Certificate was not in the filed version.

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1 Q. At what stage in the process, based on the public  
2 record did it become included in SB 14?

3 A. I don't have all of the different versions in  
4 front of me and I can't remember if it was before it  
5 passed the Senate or in conference Committee or in the  
6 House maybe. Sometime after being filed.

7 Q. Thank you. Were you involved in the drafting of  
8 this particular provision yourself?

9 A. Yes.

10 Q. Was the Election Identification Certificate in  
11 previous photo ID bills and prior legislative sessions?

12 A. I don't think so.

13 Q. How did you develop this language in SB 14?

14 MR. SWEETEN: Objection. You're asking him  
15 to reveal his thoughts, mental impressions, opinions  
16 about legislation, legislative process and so subject to  
17 legislative privilege.

18 MS. WESTFALL: Instruct him not to answer?

19 MR. SWEETEN: Instruct him not to answer.

20 Q. (BY MS. WESTFALL) Are you following your  
21 counsel's advice?

22 A. Yes.

23 Q. Are you aware of any conversations about the  
24 Election Identification Certificate to which you or  
25 anyone in the Lieutenant Governor's office was a party

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1 during the drafting process for Senate Bill 14?

2 MR. SWEETEN: You can answer.

3 A. Yes.

4 Q. (By MS. WESTFALL) When was the first  
5 conversation you're aware of?

6 A. Again, it would have been sometime after the  
7 filing of the bill. Perhaps even after -- again I can't  
8 remember without seeing each stage of the draft, I  
9 recall exactly when it would have been.

10 Q. Who was a part of the communication?

11 A. Again, it would have been myself and probably  
12 Janus McCoy, perhaps Senator Fraser. That's all I can  
13 recall for sure.

14 Q. Was the Lieutenant Governor involved in any  
15 conversations about the Election Identification  
16 Certificate?

17 A. I don't believe so.

18 Q. How many conversations did you have with

19 Ms. McCoy?

20 A. About Identification Certificate?

21 Q. Yes?

22 A. Probably a handful.

23 Q. Did you have any e-mail communications with her?

24 A. Perhaps, but I don't recall specifically.

25 Q. Where you aware of any conversations concerning

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1 the difficulty or steps necessary to take to obtain an  
2 election certificate?

3 A. I'm sorry. Could you repeat that?

4 Q. Certainly. Certainly. Are you aware of any  
5 communications or conversations concerning difficulty in  
6 obtaining an Election Identification Certificate that  
7 occurred during that drafting and consideration of SB  
8 14?

9 MR. SWEETEN: I think this does more than  
10 ask for a general subject matter topic, but you can go  
11 ahead and answer the question as posed.

12 A. I don't recall specific conversations about it  
13 being difficult to obtain one of these certificates.

14 Q. (By MS. WESTFALL) Are you aware of any testimony  
15 or public statements about difficulty of obtaining an  
16 Election Identification Certificate?

17 A. I don't recall any.

18 Q. Are you aware of any analysis of the cost or  
19 steps that a voter would need to take to obtain an  
20 Election Identification Certificate?

21 A. Yeah --

22 MR. SWEETEN: In answering that questions it  
23 would require you to reveal thoughts, mental  
24 impressions, opinions about legislation, or  
25 communications that are subject to the legislative

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1 privilege. Therefore I instruct you not to answer the  
2 question on the basis of legislative privilege.

3 Q. (By MS. WESTFALL) Are you following council's  
4 advice?

5 A. Yes.

6 Q. What documents are needed to obtain an Election  
7 Identification Certificate under SB 14?

8 A. Looks like Subsection F allows the department to  
9 require applicants to furnish information required by  
10 and it refers to another section. So I think it's the  
11 same sorts of documents required to get a Driver's  
12 License.

13 Q. Do you know how much it costs to obtain those  
14 underlying documents as you sit here today?

15 A. I don't recall.

16 Q. If an individual lacks those documents, is it  
17 possible to get an Election Identification Certificate  
18 without paying the cost for the underlying documents?

19 MR. SWEETEN: You're asking based upon the  
20 text as written?

21 MS. WESTFALL: Yes.

22 MR. SWEETEN: And his current knowledge?

23 MS. WESTFALL: Yes.

24 A. I would have to see a list under 521142 that's  
25 referenced here.

<p style="text-align: center;">281</p> <p>1 Q. (BY MS. WESTFALL) If the documents needed for</p> <p>2 the underlying forms of identification are not</p> <p>3 themselves free, there's a cost to voting for those who</p> <p>4 lack the necessary documents, is there not?</p> <p>5 A. There's a cost to obtain the Certificate if this</p> <p>6 is the only way, yes. There are also provisional ballot</p> <p>7 provisions that allow you to vote without the proper --</p> <p>8 Q. Right. And under those provisions under the face</p> <p>9 of the statute, if you vote a provisional ballot, your</p> <p>10 ballot won't be counted unless you produce and supply an</p> <p>11 appear before the County Election Official with a</p> <p>12 necessary form of ID, correct?</p> <p>13 A. Let me check. Looks like Page 6 there, if you</p> <p>14 are disabled, that's an exception. But generally I</p> <p>15 think you're right.</p> <p>16 Q. Thank you. Do you know where a voter can obtain</p> <p>17 an Election Identification Certificate?</p> <p>18 A. It says the department may issue so I assume the</p> <p>19 same place as you would get personal identification</p> <p>20 certificates for a Driver's License.</p> <p>21 Q. And that would be under the Department of Public</p> <p>22 Safety?</p> <p>23 A. Correct.</p> <p>24 Q. That would be Driver's License offices; is that</p> <p>25 right?</p>	<p style="text-align: center;">283</p> <p>1 leave to -- for the time it takes to obtain an</p> <p>2 identification?</p> <p>3 A. I don't believe it does.</p> <p>4 Q. Do you know whether some individuals and voters</p> <p>5 in Texas live at least 50 miles from the Driver's</p> <p>6 License office?</p> <p>7 MR. SWEETEN: You can answer, if you know</p> <p>8 while you're sitting here.</p> <p>9 A. Yeah, I mean, as I sit today I don't know that</p> <p>10 for sure.</p> <p>11 Q. Do you know whether any group of minorities are</p> <p>12 less likely than other groups to have the necessary</p> <p>13 forms of ID under SB 14?</p> <p>14 MR. SWEETEN: Objection to the extent that</p> <p>15 the question calls for you to reveal thoughts, or mental</p> <p>16 impressions, opinions about legislations, discussions</p> <p>17 you had with legislators, legislative staff, state</p> <p>18 agencies, Texas Legislative Council. Those matters</p> <p>19 would be subject to the legislative privilege so do not</p> <p>20 reveal those. You can refer to matters in the public</p> <p>21 record.</p> <p>22 A. So the question is: Are some minority groups</p> <p>23 less likely to have photo identification than other</p> <p>24 group? I don't know.</p> <p>25 Q. (By MS. WESTFALL) Are you aware of any</p>
<p style="text-align: center;">282</p> <p>1 A. Correct. It looks like it's silent as the</p> <p>2 different types of places.</p> <p>3 Q. Do you know the hours of operation of those</p> <p>4 offices, generally speaking?</p> <p>5 MR. SWEETEN: Objection compound.</p> <p>6 A. Of all driver's license offices in the State of</p> <p>7 Texas?</p> <p>8 MR. SWEETEN: And when you're providing this</p> <p>9 answer, just don't reveal mental impressions, thoughts</p> <p>10 or communications that occurred in formulating the bill.</p> <p>11 THE WITNESS: Sure.</p> <p>12 MS. WESTFALL: This is information about</p> <p>13 hours of operation. How is this possibly something that</p> <p>14 over which you could assert privilege? This is like</p> <p>15 probably on a website, Patrick.</p> <p>16 MR. SWEETEN: If it relates back to</p> <p>17 information that he learned and would reveal his mental</p> <p>18 impression, thoughts, or communications that incurred at</p> <p>19 the time then that potentially is privileged. Again he</p> <p>20 can answer as he is sitting here if he knows so I will</p> <p>21 let him do that.</p> <p>22 Q. (By MS. WESTFALL) Do you know?</p> <p>23 A. I believe the hours vary depending on the</p> <p>24 location of the office.</p> <p>25 Q. Does SB 14 require employers to provide paid</p>	<p style="text-align: center;">284</p> <p>1 conversations with the Department of Public Safety</p> <p>2 during the drafting of SB 14 related to Election</p> <p>3 Identification Certificates?</p> <p>4 MR. SWEETEN: You can reveal whether or not</p> <p>5 you're aware of such conversations. Do not reveal the</p> <p>6 substance of those conversations.</p> <p>7 A. I am not aware of conversations with the</p> <p>8 Department of Public Safety.</p> <p>9 Q. (By MS. WESTFALL) During any time during the</p> <p>10 consideration of SB 14; is that right?</p> <p>11 A. About Election Identification Certificates?</p> <p>12 Correct.</p> <p>13 Q. Yes. Thank you. And when did you last renew</p> <p>14 your Driver's License?</p> <p>15 A. I don't know. A year or two ago.</p> <p>16 Q. Did you go in person?</p> <p>17 A. Yes.</p> <p>18 Q. What were the hours of operation of that office?</p> <p>19 A. My memory is they were standard 8:00 to 5:00,</p> <p>20 9:00 to 5:00 hours, but I can't recall for sure.</p> <p>21 Q. How far that office from your home?</p> <p>22 A. It was -- well, about 8 miles.</p> <p>23 Q. Did you wait in a line to renew Driver's License?</p> <p>24 A. No.</p> <p>25 Q. Did you drive to get there?</p>



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1 A. I walked from my office where I worked.  
 2 Q. Do you have a copy of your birth certificate?  
 3 A. Did I?  
 4 Q. Do you?  
 5 A. Yes.  
 6 Q. If you lost it, do you know how you would replace  
 7 it?  
 8 A. I'm not 100% sure. I imagine I would contact the  
 9 State of birth.  
 10 Q. We talked a little bit about this, but could you  
 11 provide an overview based on the statute of the  
 12 provisional ballot provisions?  
 13 MR. SWEETEN: You're asking him based upon  
 14 the text of the statute?  
 15 MS. WESTFALL: Right.  
 16 MR. SWEETEN: Of SB 14?  
 17 MS. WESTFALL: Yeah.  
 18 A. So if you show up to vote -- and this is on Page  
 19 4 of the final -- never mind. Wrong copy. Looking at  
 20 the bill engrossed version as finally adopted, if a  
 21 voter shows up and does not have the required  
 22 identification he'd be accepted provisional voting at  
 23 which point the election officer shall inform them of  
 24 the right to cast a provisional ballot, provide them  
 25 written information listing the requirements for ID

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1 procedures for presenting that ID, and a map showing  
 2 them where the identification must be presented. And  
 3 then it says those provisions do not apply to a voter  
 4 who is disabled and prevents their Voter Registration  
 5 Certificate.  
 6 Q. So with the exception of that exception, if you  
 7 vote provisionally and you do not, within 6 days,  
 8 provide a form of the ID, your provisional ballot is not  
 9 counted; is that right?  
 10 A. I believe that's correct.  
 11 Q. Can you describe each and every purpose of Senate  
 12 Bill 14?  
 13 MR. SWEETEN: You can answer the question,  
 14 provide the general purpose of the bill.  
 15 A. When you say purpose, you don't mean intent. You  
 16 mean, what does the bill do on its face?  
 17 Q. (By Ms. Montgomery) Yes. Well, purpose, you  
 18 know, per the court's order either public or private,  
 19 the purpose of the bill, any purpose?  
 20 A. So SB 14, again, looking at the statute --  
 21 Q. But this is not limited to looking at the  
 22 statute. This is any purpose. And I'm sure Mr. Sweeten  
 23 will let you testify. Any purpose of the bill, public  
 24 or private, that you're aware of, pursuant to the order  
 25 of, I believe it was May 17th.

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1 A. Sure. Again, the general purpose of voter  
 2 identification and election reform bills would be to  
 3 ensure --  
 4 Q. I'm directing your attention to Senate Bill 14.  
 5 I'm sorry to interrupt you but I just want to make sure  
 6 the question is understood.  
 7 A. Sure. As I stated earlier, to ensure the  
 8 integrity of the elections and instill confidence among  
 9 voters, certainly a purpose. This particular bill also  
 10 has the purpose of making sure that voters are informed.  
 11 And making sure that poll workers are trained.  
 12 Q. Anything else?  
 13 A. I'm sure there are others. But that seems to me  
 14 to be the main purposes.  
 15 Q. In terms of the basis and information and behind  
 16 why SB 14 furthers the integrity of elections; is there  
 17 anything other than the testimony you provided earlier  
 18 about that purpose with regard to an earlier iteration  
 19 of the bill that you would like to testify about today,  
 20 with regard to Senate bill 14?  
 21 A. I don't understand the question. Can you read  
 22 that back, please?  
 23 Q. All right. It's late in the day. Let me  
 24 withdraw that question.  
 25 You testified earlier about how a previous Photo

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1 ID Bill furthered the integrity of elections. Do you  
 2 remember that testimony?  
 3 A. Yes.  
 4 Q. Does all that testimony apply to why Senate Bill  
 5 14 furthers the integrity of elections?  
 6 A. I believe, yes.  
 7 Q. Is there anything else that you want to testify  
 8 about as to why Senate Bill 14 promotes integrity of  
 9 elections?  
 10 A. I don't think so.  
 11 Q. You also testified earlier that a previous  
 12 iteration Photo ID Bill instilled confidence in voters,  
 13 did you not?  
 14 A. I believe that's right.  
 15 Q. Could you explain how SB 14 instills confidence  
 16 in voters?  
 17 MR. SWEETEN: He's testified as to the  
 18 purpose of the bill. You're now asking him why is the  
 19 purpose of the bill correct. I think what you're asking  
 20 him to do is to reveal his thoughts, mental impressions,  
 21 or opinions with respect to the specific bill and I  
 22 think what you're asking him is subject to the  
 23 legislative privilege. I will allow him to testify as  
 24 he has about the purpose of Senate Bill 14. But I think  
 25 your questions beyond that are covered by the

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1 legislative privilege.  
 2 A. I mean, I think -- again, there was testimony in  
 3 Committee that the bill was designed to do the things  
 4 that I just mentioned: Increase the security of the  
 5 elections which has the impact of increasing the  
 6 integrity of those elections.  
 7 Q. (By MS. WESTFALL) Is there any facts, analysis,  
 8 or information that you can testify about today that  
 9 would indicate that Texas voters have confidence in  
 10 their elections?  
 11 MR. SWEETEN: Objection. You're asking him  
 12 matters that would require him to reveal his mental  
 13 impressions, his opinions about legislation, or  
 14 furtherance of the legislative process and/or  
 15 communications that we've outlined previously.  
 16 Therefore this matter is legislatively privileged. And  
 17 I object to the question on that basis. You can answer  
 18 based upon matters of the public record.  
 19 A. I don't recall what evidence is in the public  
 20 record.  
 21 Q. (By MS. WESTFALL) Thank you. And are you --  
 22 A. I'm asserting privilege otherwise.  
 23 Q. Thank you. Was any part of the purpose of SB 14  
 24 to decrease the number of Hispanic voters?  
 25 MR. SWEETEN: You can testify about the

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1 purpose of the bill.  
 2 A. Looking at the bill, the purpose is not to  
 3 decrease voting by any particular group, except the  
 4 group of ineligible voters.  
 5 Q. (By Ms. Montgomery) But not based solely on the  
 6 face of the bill -- I'm talking about the public and  
 7 private purposes. I'm -- the court has allowed inquiry  
 8 as to the public and private purposes of bills pursuant  
 9 to its May 17th order. So not limiting your answer to  
 10 the face of the bill, was any part of the purpose of  
 11 Senate Bill 14 to decrease the number of Hispanic  
 12 voters?  
 13 MR. SWEETEN: You can answer. The court has  
 14 said that it is -- that to the extent such as privilege  
 15 the privilege does not protect testimony with respect to  
 16 the general purpose or the purpose of a Legislature as a  
 17 whole in enacting Senate Bill 14 as opposed to the  
 18 subjective intent of the Legislature. Therefore you can  
 19 answer based upon what the court has said you can  
 20 testify to about the purpose.  
 21 A. I'm not aware of any legislative purpose to  
 22 decrease Hispanic voters turnout.  
 23 Q. (By MS. WESTFALL) Was any part of the purpose of  
 24 Senate Bill 14 to decrease the number of any other group  
 25 of minority voters?

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1 A. I'm not aware of any legislative incentive to  
 2 decrease turnout among any group of voters.  
 3 Q. Was any part of purpose of Senate Bill 14 to  
 4 discriminate in any way against any group or groups of  
 5 minority voters?  
 6 A. I'm not aware of any legislative intent to  
 7 discriminate against any group of voters.  
 8 Q. Was any part of the purpose of Senate Bill 14 for  
 9 partisan purposes?  
 10 A. Partisan? You mean Republican versus democrat?  
 11 Q. Correct.  
 12 A. I'm not aware of any legislative intent based on  
 13 partisanship.  
 14 Q. And I believe you testified earlier that part of  
 15 the purpose of Senate Bill 14 was to inform voters and  
 16 train poll workers. Are both of those items with regard  
 17 to the requirements of Senate Bill 14?  
 18 A. Yes.  
 19 Q. Did the purpose of photo ID in Texas evolve over  
 20 time and change in any way from one session to the other  
 21 in your view?  
 22 MR. SWEETEN: I'm going to object. That  
 23 calls for him to reveal matters that are subject to the  
 24 legislative privilege including his thoughts, mental  
 25 impressions, opinions about legislation or in

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1 furtherance of the legislative process.  
 2 MS. WESTFALL: I'm asking his opinion about  
 3 purposes which I'm allowed to examine on. So I'm not  
 4 certain I'm asking his analytical ability of discussing  
 5 purpose to purpose to purpose which he's testified about  
 6 today. So I'm not certain why you would be directing  
 7 him not to answer my question, Mr. Sweeten.  
 8 MR. SWEETEN: Well, just to be clear. He's  
 9 answered the question on the general purpose of the  
 10 bill. He's answered the question on the general purpose  
 11 of the other statutes that -- presented in front of him.  
 12 So to the extent that you're asking him that, I will let  
 13 him answer the question as to purpose. So you can go  
 14 ahead and answer with that instruction.  
 15 A. I would say generally the purpose has been the  
 16 same. I mean, given that there are different sponsors,  
 17 again, when you say purpose, I hear intent. And I don't  
 18 know the intent of any given sponsor, or voter, on the  
 19 supporter of this bill.  
 20 Q. (BY MS. WESTFALL) Yes. I'm not asking about the  
 21 intent.  
 22 A. Right.  
 23 MR. SWEETEN: Let him finish if you would.  
 24 He's not finished with his answer. You can finish.  
 25 A. So, yes. Generally speaking, the purpose as you

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1 mean it of each of these versions of the bill has  
2 remained similar.

3 Q. (BY MS. WESTFALL) And is it true that the  
4 Lieutenant Governor has consistently indicated that one  
5 of his purposes was to prevent non-citizens from voting?

6 MR. SWEETEN: Don't reveal matters or  
7 discussions that you've had with the Lieutenant Governor  
8 that would invade the attorney/client privilege. Also  
9 that would be subject to the legislative privilege. You  
10 can testify as to matters of the public record and  
11 public statements.

12 A. Right. I'm not aware of any statements that  
13 indicate that was his intent.

14 Q. (By MS. WESTFALL) Okay. Well, remember you  
15 testified about U.S. Exhibit 3 concerning a letter in  
16 the Texas Weekly that related to the purpose of photo  
17 ID --

18 A. Right.

19 Q. In preventing non-citizens from voting. Does  
20 that refresh your recollection as to one of the  
21 Lieutenant's Governor's intents and purposes in  
22 promoting the issue of voter ID?

23 MR. SWEETEN: He's not going to testify  
24 about someone's subjective intent. He can testify about  
25 whether or not something was -- a statement was made on

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1 the public record. But what you're asking him to do is  
2 to reopen communications that he may have had with  
3 Lieutenant Governor Dewhurst which would be both  
4 protected by the attorney/client privilege as well as  
5 the legislative privilege.

6 MS. WESTFALL: I'm asking about an article  
7 that was published in the Texas Weekly so it seems to me  
8 to be fairly public.

9 MR. SWEETEN: You're asking about intent of  
10 the statement. And the intent of the statement, again,  
11 is a legislative privilege as well as the  
12 attorney/client privilege. He can testify about whether  
13 or not a statement was made, but he's not going to  
14 testify about the subjective intent which is something  
15 specifically prohibited in the court.

16 A. I believe your earlier question was the purpose  
17 of Lieutenant Governor Dewhurst to prevent non-citizen's  
18 from voting.

19 Q. (BY MS. WESTFALL) Yes.

20 A. And I said no. The Texas Weekly article to which  
21 you referred appears to have two versions of the letter.  
22 And I can't remember which one was deemed to be the  
23 official statement and which was a draft or not. The  
24 short answer, again, is: I'm not aware of that being  
25 the purpose for Lieutenant Governor to support the bill,

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1 given public statements.

2 Q. Was any purpose of any Photo ID Bill to increase  
3 voter turnout?

4 MR. SWEETEN: Objection. Asked and  
5 answered. He's provided the purpose of each of the  
6 bills. You can answer as to the general purpose of the  
7 legislation.

8 A. Again, I would say that, yes, I'm more confident  
9 in electorate that turns out in greater numbers.

10 Q. (By MS. WESTFALL) So are you amending your  
11 response to my question about each and every purpose of  
12 Senate Bill 14 to include -- one of the purposes was to  
13 increase voter turnout?

14 MR. SWEETEN: Objection argumentative. You  
15 can answer.

16 A. My understanding was that you are asking me to  
17 clarify and give more detail about an existing answer.  
18 So my answer is the purpose of the bill -- one of the  
19 purposes, the one that I would identify was to insure  
20 the integrity of the elections and instill confidence in  
21 the voting public. Whether that results in an increased  
22 turnout might be ineffective and maybe it's the purpose  
23 of it depending on how you characterize it.

24 Q. (By MS. WESTFALL) Is it your testimony here  
25 today that one of the purposes was to increase turnout?

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1 MR. SWEETEN: Objection. Asked and  
2 answered.

3 A. I would repeat it's -- whether it's characterized  
4 as an effective legislation, or a purpose, or an intent,  
5 I'm not sure. But I think it's a possibility.

6 Q. (By MS. WESTFALL) Are you aware of any incidents  
7 of in-person voter impersonations in the State of Texas  
8 in the last 20 years?

9 MR. SWEETEN: Hold on. When you're  
10 answering the question don't reveal thoughts, mental  
11 impressions, opinions about legislation, including  
12 discussions or conversations you had with legislatures,  
13 legislative staff, State Agencies, Texas Legislative  
14 Council. You can answer it based upon matters of the  
15 public record or as you're sitting here right now the  
16 question is what are you aware of. And it doesn't  
17 invade those privileges then you can answer that  
18 question.

19 A. I don't recall how much of the public testimony  
20 -- and are we talking about SB 14 now?

21 Q. (By MS. WESTFALL) Yes.

22 A. I don't recall how much of the public testimony  
23 of SB 14 involved examples of in-person voter fraud.

24 Q. I'm sorry. You don't recall any public  
25 testimonies ever?

<p style="text-align: center;">297</p> <p>1 A. I don't recall whether the public testimony</p> <p>2 included examples of in-person voter fraud.</p> <p>3 Q. How many incidences of mail-in voter fraud have</p> <p>4 occurred in Texas in the last 20 years?</p> <p>5 MR. SWEETEN: In answering this question</p> <p>6 don't reveal matters that are subject to the legislative</p> <p>7 privileges I have outlined today.</p> <p>8 A. Right. I don't know that number.</p> <p>9 Q. (By MS. WESTFALL) Have you heard of any voters</p> <p>10 who did not participate in an election because they were</p> <p>11 concerned that voter fraud would cancel out their vote?</p> <p>12 MR. SWEETEN: Same objection, same</p> <p>13 instructions. You can answer as to matters of the</p> <p>14 public record, but don't reveal matters subject to the</p> <p>15 legislative privilege.</p> <p>16 A. Again, I don't recall all of the public provide</p> <p>17 testimony specifically.</p> <p>18 Q. (By MS. WESTFALL) Do you think Senate Bill 14,</p> <p>19 if ultimately able to be implemented, will result in</p> <p>20 increased turnout in Texas?</p> <p>21 MR. SWEETEN: When you're answering the</p> <p>22 question don't reveal matters that are subject to the</p> <p>23 legislative privileges. You can answer if your answer</p> <p>24 will not reveal those matters.</p> <p>25 A. I don't know what will happen.</p>	<p style="text-align: center;">299</p> <p>1 A. Right.</p> <p>2 Q. Are you aware of any conversations about that</p> <p>3 failure in 2009 and how to avoid such failure in 2011?</p> <p>4 MR. SWEETEN: You're asking about the</p> <p>5 specific substance of the communication. You're asking</p> <p>6 matters that would require him to reveal matters that</p> <p>7 are subject to the legislative privilege. Accordingly,</p> <p>8 I'm going to instruct him not to answer. Also you</p> <p>9 potentially are asking questions that may relate to the</p> <p>10 attorney/client privilege or that deliberative process</p> <p>11 privilege.</p> <p>12 Q. (By MS. WESTFALL) Do you have any testimony?</p> <p>13 A. No. I'll assert the privilege.</p> <p>14 Q. Is it true that the Lieutenant Governor reserves</p> <p>15 low bill numbers for priority bills?</p> <p>16 MR. SWEETEN: You can testify about matters</p> <p>17 in the public record general procedure.</p> <p>18 A. I believe that's right.</p> <p>19 Q. (By MS. WESTFALL) And did Lieutenant Governor</p> <p>20 not have any involvement with SB 14 until Senator Fraser</p> <p>21 filed it in 2011 -- 2010, sorry.</p> <p>22 Mr. Sweeten: Objection to the question as</p> <p>23 vague.</p> <p>24 A. I don't know if he did.</p> <p>25 Q. (By MS. WESTFALL) If you learned that</p>
<p style="text-align: center;">298</p> <p>1 Q. (By MS. WESTFALL) Did the Lieutenant Governor</p> <p>2 play any role in developing the strategy to insure that</p> <p>3 Senate Bill 14 would be passed?</p> <p>4 MR. SWEETEN: Objection. You're asking him</p> <p>5 to reveal thoughts, mental impressions, conversations he</p> <p>6 may have had with Lieutenant Governor Dewhurst as well</p> <p>7 as his -- any specific roles he may have had or</p> <p>8 discussions with legislators. So to the extent that</p> <p>9 what she's asking calls upon matters that are subject to</p> <p>10 legislative privilege, I would instruct you not to</p> <p>11 answer the question. You can answer based upon the</p> <p>12 public record or matters of -- that are public as to</p> <p>13 those matters.</p> <p>14 A. I'll assert the privilege.</p> <p>15 Q. (By MS. WESTFALL) Are you aware of any</p> <p>16 conversations surrounding how to prevent what happened</p> <p>17 in 2009 with voter ID from happening again in 2011?</p> <p>18 MR. SWEETEN: I'm going to instruct you on</p> <p>19 the legislative privilege, don't reveal communications</p> <p>20 that you've had regarding this bill.</p> <p>21 A. Could you clarify what you mean?</p> <p>22 MR. SWEETEN: Sorry. With the individuals</p> <p>23 that I've already outlined previously.</p> <p>24 Q. (By MS. WESTFALL) You testified earlier that</p> <p>25 voter ID failed in 2009, right?</p>	<p style="text-align: center;">300</p> <p>1 Ms. Rathgeber just testified to that effect, would it</p> <p>2 surprise you?</p> <p>3 A. That she testified to the effect?</p> <p>4 Q. That she testified that the Lieutenant Governor</p> <p>5 had no involvement in SB 14 until Senator Fraser filed it</p> <p>6 in November 2010?</p> <p>7 MR. SWEETEN: Objection asked and answered.</p> <p>8 A. Does it surprise me?</p> <p>9 Q. (By MS. WESTFALL) Does it sound accurate?</p> <p>10 MR. SWEETEN: Same objection asked and</p> <p>11 answered.</p> <p>12 A. I'm not aware of any such meetings or</p> <p>13 involvement.</p> <p>14 Q. (By MS. WESTFALL) Are you aware that the</p> <p>15 Lieutenant Governor asked Senator Fraser to re-file his</p> <p>16 bill in order to have a lower number?</p> <p>17 MR. SWEETEN: Don't reveal communications</p> <p>18 that are subject to legislative privilege. She's just</p> <p>19 asking a very specific question about a conversation</p> <p>20 that would require you to do so. I'll instruct you not</p> <p>21 to answer. I would advice council that he can answer</p> <p>22 about a specific conversation as long as it does not</p> <p>23 reveal the subject matter of the communication which you</p> <p>24 are doing so in your question.</p> <p>25 Q. (By MS. WESTFALL) Do you have any testimony?</p>

<p style="text-align: center;">301</p> <p>1 A. No.</p> <p>2 Q. Are you asserting the privilege based on advice</p> <p>3 of council?</p> <p>4 A. Yes.</p> <p>5 Q. Are you aware of the Senate 2011 rules?</p> <p>6 A. Generally, yes.</p> <p>7 Q. And did those rules similar to the 2009 rules</p> <p>8 include Rule 5.11 concerning special orders and Voter ID</p> <p>9 Legislation?</p> <p>10 A. My memory is that they did, but I can't be</p> <p>11 certain.</p> <p>12 Q. Was SB 14 considered by any Senate Committees?</p> <p>13 A. I believe it was considered by the</p> <p>14 Committee-of-the-Whole.</p> <p>15 Q. What role did the Lieutenant Governor play in</p> <p>16 consideration of Senate Bill 14 by the</p> <p>17 Committee-of-the-Whole?</p> <p>18 MR. SWEETEN: You can testify as to matters</p> <p>19 of the public record. Don't reveal matters that are</p> <p>20 subject to the privilege or the to attorney/client</p> <p>21 privilege, including conversations you had with</p> <p>22 Lieutenant Governor Dewhurst.</p> <p>23 A. My memory from the Committee was that Lieutenant</p> <p>24 Governor Dewhurst sat among the Senators and I can't</p> <p>25 recall if he asked questions of the witnesses or not. I</p>	<p style="text-align: center;">303</p> <p>1 result of those concerns being aired?</p> <p>2 MR. SWEETEN: Don't reveal thoughts, mental</p> <p>3 impressions, or opinions about legislator or</p> <p>4 communications that you've had with Lieutenant Governor</p> <p>5 Dewhurst, with legislators, legislative staff, State</p> <p>6 Agencies, Texas Legislative Council. You can answer to</p> <p>7 the extent that you can reveal matters that are not</p> <p>8 privileged or that are matters of the public record.</p> <p>9 A. Looking at the file version of the bill -- the</p> <p>10 final version of the bill, there are several changes</p> <p>11 that were made.</p> <p>12 Q. (By MS. WESTFALL) What were those?</p> <p>13 A. As we discussed earlier the Election</p> <p>14 Identification Certificate, the forms of ID acceptable,</p> <p>15 provisional ballot process. There may be others I'm</p> <p>16 forgetting. I can looking back through if you'd like.</p> <p>17 Q. And are these changes that were made from when it</p> <p>18 was filed to when it was passed?</p> <p>19 A. The ones I just described, yes.</p> <p>20 Q. And do any of those respond specifically to the</p> <p>21 concerns raised by legislators and others about the</p> <p>22 impact of the bill on minority voters?</p> <p>23 MR. SWEETEN: Again, don't reveal your</p> <p>24 mental impressions, your opinions about legislation, or</p> <p>25 the furtherance of the legislative process, or</p>
<p style="text-align: center;">302</p> <p>1 believe he voted in favor of the bill.</p> <p>2 Q. (By Ms. Montgomery) Did you play any role during</p> <p>3 the Committee's consideration of Senate Bill 14?</p> <p>4 MR. SWEETEN: Objection to the question as</p> <p>5 vague. You can answer to the extent you understand it.</p> <p>6 A. I was also in the Committee on the floor</p> <p>7 available as I sometimes was for questions from any</p> <p>8 Senator.</p> <p>9 Q. (By MS. WESTFALL) Were you charged with advising</p> <p>10 the Lieutenant Governor, providing him with information</p> <p>11 if Senators had inquiries of Lieutenant Governor about</p> <p>12 the bill?</p> <p>13 A. I mean, my job was to be general counsel for the</p> <p>14 Lieutenant Governor. So I acted like I would have on</p> <p>15 any other work day, I suppose.</p> <p>16 Q. During the floor debate on Senate Bill 14, did</p> <p>17 anyone raise concerns about the bill's impact on</p> <p>18 minority voters?</p> <p>19 A. My memory is that the public testimony did</p> <p>20 include testimony about that.</p> <p>21 Q. Who made -- who raised those concerns?</p> <p>22 A. My memory is that concerns were raised by some</p> <p>23 Senators in opposition to the bill, and perhaps from</p> <p>24 some of the invited, and public testimony.</p> <p>25 Q. Were any changes made to Senate Bill 14 as a</p>	<p style="text-align: center;">304</p> <p>1 communications that I've outlined previously. To the</p> <p>2 extent you can refer to matters of the public record,</p> <p>3 you can do so.</p> <p>4 A. My memory is that minutes were successfully added</p> <p>5 on the floor -- I mean, in the Committee to -- I don't</p> <p>6 remember for sure, by Senator Hinojosa and Senator Lucio</p> <p>7 who had earlier expressed concerns generally about the</p> <p>8 impact of the bill. And I believe they were both</p> <p>9 successful in adding amendments.</p> <p>10 Q. (By Ms. Montgomery) Do you remember what the</p> <p>11 substance of those amendments were?</p> <p>12 A. I believe Senator Hinojosa was added to related</p> <p>13 to the Concealed Handgun License as an acceptable form</p> <p>14 of ID. And I believe Senator Lucio dealt with whether</p> <p>15 expired licenses could be used or not. The length of</p> <p>16 time at which a license could be expired and still be</p> <p>17 acceptable as proof of ID.</p> <p>18 Q. And how do those amendments mitigate the impact</p> <p>19 of the bill on minority voters?</p> <p>20 MR. SWEETEN: On that question don't reveal</p> <p>21 any mental impressions, opinions, about legislation, or</p> <p>22 furtherance of the legislative process, or other matters</p> <p>23 that were subject to the conversations we discussed</p> <p>24 previously. To the extent you can refer to matter of</p> <p>25 the public record, you can do so.</p>



<p style="text-align: center;">305</p> <p>1 A. I think from what I remember in their testimony</p> <p>2 their purpose in introducing those amendments was to</p> <p>3 increase the acceptable forms of ID. Presumably that</p> <p>4 would have an impact on all voters including minority</p> <p>5 voters.</p> <p>6 Q. (By MS. WESTFALL) What does it mean when a</p> <p>7 legislator says on the Senate floor, I am not advised?</p> <p>8 MR. SWEETEN: Objection. Calls for</p> <p>9 speculation. You can answer to the extent you know.</p> <p>10 A. I think it depends on who is saying it and the</p> <p>11 context.</p> <p>12 Q. (By MS. WESTFALL) When Senator Fraser said, "I</p> <p>13 am not advised", dozens and dozens of times</p> <p>14 during consideration of SB 14, how did you interpret</p> <p>15 that statement?</p> <p>16 MR. SWEETEN: Objection calls for</p> <p>17 speculation. Objection compound. You can answer.</p> <p>18 A. The way I take it, hearing it now, is that he</p> <p>19 didn't know for sure. But I don't know.</p> <p>20 Q. (By MS. WESTFALL) Is it part of the Bill</p> <p>21 Sponsor's role as the author of Senate Bill 14 to field</p> <p>22 questions from other Senators on the floor during the</p> <p>23 debate?</p> <p>24 A. It's typical for a Bill Sponsor to take</p> <p>25 questions.</p>	<p style="text-align: center;">307</p> <p>1 speculation. You can answer to the extent that -- you</p> <p>2 can answer.</p> <p>3 A. I don't know.</p> <p>4 Q. (By MS. WESTFALL) Is it possible that he knew</p> <p>5 the answer to some of those questions but didn't want to</p> <p>6 state the answers on the Senate floor?</p> <p>7 MR. SWEETEN: The same objection. Calls for</p> <p>8 gross speculation but go ahead.</p> <p>9 A. Is it possible that he knew the answer to some of</p> <p>10 the questions he said he was unadvised on. Again,</p> <p>11 anything is possible but I certainly don't know.</p> <p>12 Q. (By MS. WESTFALL) Some minority legislators who</p> <p>13 listen to the repeated assertion of, "I am not advised",</p> <p>14 might have felt that the lack of substantive response</p> <p>15 about the impact of SB 14 on minority voters might be --</p> <p>16 might be viewed as a lack of concern for those issues.</p> <p>17 Did you have that feeling as you watched the debate?</p> <p>18 MR. SWEETEN: Objection. Relevance.</p> <p>19 Objection, to the extent you're asking him about</p> <p>20 communications he may have had with anybody, don't</p> <p>21 reveal those. You can answer the question, though to</p> <p>22 the extent she's asking you questions that are public</p> <p>23 record. So, go ahead.</p> <p>24 A. So the question is: In my opinion, did Senator's</p> <p>25 Fraser's handling of the debate in saying, "I am not</p>
<p style="text-align: center;">306</p> <p>1 Q. Would you say it's typical or atypical to say, "I</p> <p>2 am not advised", as many times as Senator Fraser did</p> <p>3 during the debate of SB 14?</p> <p>4 MR. SWEETEN: Let me interpose an objection.</p> <p>5 Objection calls for speculation. You can answer to the</p> <p>6 extent you know, based on public record.</p> <p>7 A. I would it's atypical for a debate to last that</p> <p>8 long. And so if he said I'm not advised more often it</p> <p>9 might be -- in part it's because the debate was so long.</p> <p>10 Q. (By MS. WESTFALL) How long was the debate of SB</p> <p>11 14?</p> <p>12 A. I don't recall exactly. Hours and hours.</p> <p>13 Q. So you think it was routine for a Bill Sponsor to</p> <p>14 have that response to so many questions based on the</p> <p>15 length of the testimony -- I mean based on the length of</p> <p>16 the consideration; is that your testimony?</p> <p>17 MR. SWEETEN: Objection. Calls for</p> <p>18 speculation. Objection. Vague. You can answer.</p> <p>19 A. I would say it's probably not typical of a</p> <p>20 Senator. But I honestly, I'm not sure it's typical of</p> <p>21 Senator Fraser or not.</p> <p>22 Q. (By MS. WESTFALL) Do you believe that Senator</p> <p>23 Fraser in fact did not know the answer to all those</p> <p>24 questions?</p> <p>25 MR. SWEETEN: Objection. Calls for</p>	<p style="text-align: center;">308</p> <p>1 advised", that was the word you used --</p> <p>2 Q. (By MS. WESTFALL) Callous.</p> <p>3 A. Callous. Before you said -- That it was not --</p> <p>4 you phrased it differently.</p> <p>5 Q. That it was not -- I'm not sure what the question</p> <p>6 was. But it was showing a lack of regard for those</p> <p>7 issues.</p> <p>8 A. I did not and I don't interpret it as a lack of</p> <p>9 regard for any particular population.</p> <p>10 Q. Are you aware of any communications concerning a</p> <p>11 less restrictive means of achieving the same purpose of</p> <p>12 SB 14 than what is set forth in SB 14?</p> <p>13 MR. SWEETEN: Okay. I'm going to instruct</p> <p>14 you as to legislative privilege and specifically I'm</p> <p>15 going to instruct you, don't reveal thoughts, mental</p> <p>16 impressions, or opinions about legislation or in</p> <p>17 furtherance of the legislative process. Don't reveal</p> <p>18 communications you've had Lieutenant Governor Dewhurst,</p> <p>19 members of the Lieutenant Governor's office,</p> <p>20 legislators, legislative staff, State Agencies, or Texas</p> <p>21 Legislative Council in answering the question.</p> <p>22 A. Okay, I -- could you explain what you mean by</p> <p>23 less restrictive?</p> <p>24 Q. (By MS. WESTFALL) Are you aware of any</p> <p>25 communications about whether there could be more</p>



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1 expansive set of allowable forms of ID in SB 14 and  
 2 still accomplish the same purpose of the legislature in  
 3 enacting SB 14?  
 4 MR. SWEETEN: You're asking him about  
 5 specific conversations and the substance of specific  
 6 conversations. I think those are subject to legislative  
 7 privilege. I'm going to instruct you not to answer on  
 8 that basis. If council wants to rephrase it without all  
 9 the substance of the conversation in it I will allow him  
 10 to answer the question as to who was involved, when the  
 11 conversation was, who were the parties, et cetera.  
 12 Q. (By MS. WESTFALL) My question stands. Do you  
 13 have any testimony in response?  
 14 A. I'll assert privilege.  
 15 Q. Are you familiar with the Georgia Photo ID Law?  
 16 A. Generally, yes.  
 17 Q. Did you review it at the time when you were  
 18 involved in drafting Photo ID Laws?  
 19 MR. SWEETEN: I think the question asks him  
 20 to reveal thoughts, his mental impressions, and opinions  
 21 in the process by which legislative -- Senate Bill 14 or  
 22 legislative acts, including Senate Bill 14, was passed.  
 23 You don't have to reveal your thought process with  
 24 respect to that. That's subject to the legislative  
 25 privilege.

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1 Q. (By MS. WESTFALL) Are you aware that the Georgia  
 2 Photo ID Law allows for the use of photo ID issued by  
 3 any entity of the United States, Georgia, or another  
 4 State entity?  
 5 MR. SWEETEN: You can answer whether you're  
 6 aware.  
 7 Q. (By MS. WESTFALL) Based on the -- just based on  
 8 the face of the law?  
 9 A. That sounds right to me.  
 10 Q. And are you aware that the Georgia ID allows for  
 11 the use of valid employee cards?  
 12 A. That sounds right.  
 13 Q. Are you aware that the Georgia ID Law allows for  
 14 expired IDs to be used that are photo in nature?  
 15 A. I don't know that. I don't recall that.  
 16 Q. Is it fair to say that there are differences  
 17 between the Georgia Photo ID Law and SB 14?  
 18 A. From what I remember, yes.  
 19 Q. Is it fair to say that SB 14 provides for a more  
 20 restrictive and narrower set of forms of allowable photo  
 21 ID than does the Georgia Law?  
 22 MR. SWEETEN: You can answer based upon the  
 23 text of the bills as they exist.  
 24 A. My memory is that there are fewer forms of  
 25 acceptable ID in Texas than in Georgia.

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1 Q. (By MS. WESTFALL) And does the same hold true  
 2 with regard to the Indiana Photo ID Law?  
 3 A. I would have to review the Indiana Law.  
 4 Q. Could you mark this as U.S. 16?  
 5 (Exhibit No. 82 was marked.)  
 6 Q. (By MS. WESTFALL) Would you mark it as 82,  
 7 please? I'm handing you what's been marked as U.S. 82  
 8 do you recognize this document?  
 9 A. That looks like Indiana's Motor ID Law.  
 10 Q. Can you take a look at the first page of the  
 11 document where it list allowable forms of ID and defines  
 12 proof of identification. Do you see that?  
 13 A. Uh-huh. Yes.  
 14 Q. And does it allow for use of photo ID issued by  
 15 the United States or the State of Indiana?  
 16 A. Yes.  
 17 Q. And is that different from SB 14?  
 18 A. Yes.  
 19 Q. Is it fair to say that SB 14 is more restrictive  
 20 than the Indiana Photo ID Law, on its face?  
 21 A. There are probably fewer acceptable  
 22 identifications under the SB 14 Law.  
 23 Q. Are you familiar with the amendments that were  
 24 offered to SB 14 on the Senate floor?  
 25 A. Generally.

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1 Q. Are you aware of an amendment introduced by  
 2 Senator Davis that would have allowed the use of ID that  
 3 is either unexpired or has expired sometime since the  
 4 past election?  
 5 A. I don't recall that one specifically.  
 6 Q. Did the Lieutenant Governor vote on any of the  
 7 amendments to SB 14?  
 8 A. I don't recall that either.  
 9 Q. Did you play any role in advising the Lieutenant  
 10 Governor about any of the amendments that were offered  
 11 to SB 14?  
 12 MR. SWEETEN: You can answer, but don't  
 13 reveal the substance of the conversation.  
 14 A. Certainly not for all of them. It's possible I  
 15 gave them some input on some of them.  
 16 Q. (By MS. WESTFALL) Do you recall which ones?  
 17 A. No.  
 18 Q. Are you aware of any amendments that would have  
 19 mitigated the impact of Senate Bill 14 on minority  
 20 voters as you sit here today?  
 21 MR. SWEETEN: Objection. I think you are  
 22 going into his mental processes, his mental impressions  
 23 about legislation or furtherance of the legislative  
 24 process. If you want to ask as to the text of the bill,  
 25 sitting here he can answer that, but otherwise I think

<p style="text-align: center;">313</p> <p>1 that's legislative privilege.</p> <p>2 Q. (By MS. WESTFALL) Do you have an answer?</p> <p>3 A. So the question is, please?</p> <p>4 Q. Are you aware of any amendments that would have</p> <p>5 mitigated the impact of Senate Bill 14 on minority</p> <p>6 voters?</p> <p>7 A. My memory is --</p> <p>8 MR. SWEETEN: Same objection and</p> <p>9 instruction.</p> <p>10 A. My memory is from the debate that some amendments</p> <p>11 were offered and the author maybe said that that was the</p> <p>12 intended effect. But I'm not sure which of those were</p> <p>13 adopted or if that was an actual effect.</p> <p>14 Q. (By MS. WESTFALL) I see. When did the Senate</p> <p>15 pass Senate Bill 14?</p> <p>16 A. I don't remember the date. It would have been in</p> <p>17 January of 2011.</p> <p>18 Q. Was it -- was it approximately 2 weeks from the</p> <p>19 date of filing of the bill or receipt of the bill and</p> <p>20 the Senate until when it was passed by the Senate in</p> <p>21 January 2011; is that about right?</p> <p>22 A. That sounds about right.</p> <p>23 Q. Is that kind of unusual for a bill to be received</p> <p>24 by the Senate and passed within two weeks?</p> <p>25 A. It's not unusual for an emergency bill.</p>	<p style="text-align: center;">315</p> <p>1 Q. (By MS. WESTFALL) Are you aware of any</p> <p>2 conversations between Lieutenant Governor or staff</p> <p>3 related to any amendments offered by opponents of the</p> <p>4 bill?</p> <p>5 MR. SWEETEN: You can answer.</p> <p>6 A. Communications between opponents of the bill and</p> <p>7 Lieutenant Governor staff. So did I have those</p> <p>8 conversations or did someone on our staff? I think</p> <p>9 there were conversations on the floor during the debate.</p> <p>10 Q. (By MS. WESTFALL) Any other conversations that</p> <p>11 did not occur in the debate?</p> <p>12 A. I don't recall. I'm not sure.</p> <p>13 Q. Did you have -- did you monitor Senate Bill 14</p> <p>14 once it was passed to the Senate and went to the House?</p> <p>15 A. Yes.</p> <p>16 Q. Could you describe your monitoring of Senate Bill</p> <p>17 14 once it went to the House?</p> <p>18 MR. SWEETEN: You can answer, but in doing</p> <p>19 so don't reveal communications you've had with</p> <p>20 Lieutenant Governor with Legislators, Legislative Staff,</p> <p>21 State Agencies, Texas Legislative Council.</p> <p>22 A. The bulk of my activity was charting the progress</p> <p>23 of the bill, being -- again, as I mentioned earlier,</p> <p>24 being available as a resource for anyone including House</p> <p>25 and staff, House members and their staffs on the lawyer</p>
<p style="text-align: center;">314</p> <p>1 Q. I see. And how many emergency bills are you</p> <p>2 aware of based on your experience working for the</p> <p>3 Lieutenant Governor?</p> <p>4 A. I think there were six or eight last session.</p> <p>5 There are at least a few every session.</p> <p>6 Q. Were they all passed in the Senate within</p> <p>7 two weeks in January?</p> <p>8 A. I don't know.</p> <p>9 Q. Do you know of any others that were passed within</p> <p>10 two weeks in January?</p> <p>11 A. I don't recall examples.</p> <p>12 Q. Did the Lieutenant Governor play any role in</p> <p>13 conferring with or having any discussions with Senators</p> <p>14 about amendments?</p> <p>15 MR. SWEETEN: Objection. I think you're</p> <p>16 asking him to reveal conversations that he may have had</p> <p>17 with Lieutenant Governor Dewhurst, that he or Lieutenant</p> <p>18 Governor Lieutenant Dewhurst may have had the</p> <p>19 legislators, legislative staff, State Agencies, Texas</p> <p>20 Ledge Council, or to reveal thoughts, mental</p> <p>21 impressions, or opinions about the legislation. You can</p> <p>22 answer as to matters that are of public record.</p> <p>23 A. I'm not aware of any public conferring between</p> <p>24 Lieutenant Governor and senators. And I'll assert</p> <p>25 privilege as to any private conversation.</p>	<p style="text-align: center;">316</p> <p>1 or staffer from the Senate.</p> <p>2 Q. (By MS. WESTFALL) Did the Lieutenant Governor</p> <p>3 play any role in the Conference Committee's</p> <p>4 consideration of Senate Bill 14?</p> <p>5 MR. SWEETEN: You can testify as to matters</p> <p>6 of public record. Don't reveal communications that</p> <p>7 would be subject to legislative privilege.</p> <p>8 A. Yeah. I'm not aware of any sort of public</p> <p>9 pronouncements of his role with members of the</p> <p>10 committee.</p> <p>11 Q. He appointed the conferees; did he not?</p> <p>12 A. Yeah. To clarify. Beyond appointing them. But</p> <p>13 I think your questions was the process of that</p> <p>14 Committee.</p> <p>15 Q. Did -- are you familiar with the changes to SB 14</p> <p>16 that occurred during conference?</p> <p>17 A. I would -- I would -- I don't recall. Is the</p> <p>18 short answer. I would need to look at different</p> <p>19 versions to be sure.</p> <p>20 Q. And was the Election Identification Certificate</p> <p>21 Provision inserted into the bill in conference?</p> <p>22 A. It's possible.</p> <p>23 Q. Are you aware of whether that provision and</p> <p>24 perhaps others outside of the versions of SB 14 passed</p> <p>25 in the House and Senate were put into the bill in</p>

<p style="text-align: center;">317</p> <p>1 conference?</p> <p>2 A. I can't be sure about the timing of it.</p> <p>3 Q. Are you aware that during the conference</p> <p>4 Committee, the committee removed a provision from the</p> <p>5 bill that would have required voter education targeted</p> <p>6 at low income and minority voters?</p> <p>7 A. I don't recall that.</p> <p>8 Q. Are you aware of any conversations involving</p> <p>9 Lieutenant Governor on whether SB 14 might</p> <p>10 disproportionately impact minority voters?</p> <p>11 MR. SWEETEN: I'm going to object based upon</p> <p>12 legislative privilege. Don't reveal, in answering the</p> <p>13 questions she's asking, reveal substance of</p> <p>14 communications that Mr. Dewhurst may have had with</p> <p>15 others. Don't reveal those. Those are subject to the</p> <p>16 attorney/client privilege or the legislative privilege.</p> <p>17 A. I'm not aware of any public discussions like that</p> <p>18 and I'll assert privilege on other internal</p> <p>19 communications.</p> <p>20 Q. (By MS. WESTFALL) Are you aware of any</p> <p>21 communications that the Lieutenant Governor had about an</p> <p>22 obligation to adhere to Section 5 of the Voting Rights</p> <p>23 Act with regard to Senate Bill 14?</p> <p>24 MR. SWEETEN: Don't reveal matters that are</p> <p>25 subject to the attorney/client privilege or matters of</p>	<p style="text-align: center;">319</p> <p>1 A. Voted for. Sorry.</p> <p>2 MR. SWEETEN: Don't reveal communications of</p> <p>3 Legislators. Don't reveal matters of the public record.</p> <p>4 A. Right. Again, from the public testimony my</p> <p>5 memory is that there were general discussions about the</p> <p>6 impact of the bill and that included opponents and</p> <p>7 proponents.</p> <p>8 MS. WESTFALL: Thank you. Could you mark</p> <p>9 this as Exhibit 83.</p> <p>10 (Exhibit No. 83 was marked.)</p> <p>11 Q. (By MS. WESTFALL) I'm handing you what's been</p> <p>12 marked as U.S. 83; do you recognize this exhibit?</p> <p>13 A. It looks like a press release from Lieutenant</p> <p>14 Governor David Dewhurst.</p> <p>15 Q. Can you review it and let me know when you've had</p> <p>16 a chance to take a look at it?</p> <p>17 A. It looks like it was a late January press release</p> <p>18 saying that he's glad that it passed the Senate.</p> <p>19 Q. And can you see that it indicates increasing</p> <p>20 public confidence in our election process by insuring</p> <p>21 only U.S. citizens who are legally eligible vote in</p> <p>22 Texas. Do you see that statement?</p> <p>23 A. Yes.</p> <p>24 Q. How does Senate Bill 14 promote that?</p> <p>25 MR. SWEETEN: You're asking him to reveal</p>
<p style="text-align: center;">318</p> <p>1 legislative privilege. You can reveal public testimony</p> <p>2 on the issue.</p> <p>3 A. I don't recall all of his public statements and</p> <p>4 I'll assert privilege as to internal communications.</p> <p>5 Q. (By MS. WESTFALL) Have you ever heard of any</p> <p>6 Texas State Legislator who voted in favor of SB 14,</p> <p>7 saying that it would prevent racial or ethnic minorities</p> <p>8 from voting in Texas?</p> <p>9 MR. SWEETEN: Did you say testimony,</p> <p>10 Elizabeth? Can you read the question?</p> <p>11 Q. (By MS. WESTFALL) Have you ever heard any Texas</p> <p>12 State Legislator who voted in favor of Senate Bill 14</p> <p>13 say that it would prevent racial or ethnic minorities</p> <p>14 from voting Texas?</p> <p>15 MR. SWEETEN: Don't reveal communications</p> <p>16 that you've had with Legislators, Legislative Staff,</p> <p>17 other productive communications, but you can answer to</p> <p>18 the extent you can refer to matters of the public</p> <p>19 record.</p> <p>20 A. I think, again, during the open testimony</p> <p>21 there were, you know, there were probably members of the</p> <p>22 Senate who asserted that that would be the impact. But</p> <p>23 that's, I think, as close as a yes as I can get.</p> <p>24 Q. (By MS. WESTFALL) I was asking whether any Texas</p> <p>25 State Legislator voted in favor?</p>	<p style="text-align: center;">320</p> <p>1 matters that are subject to the legislative privilege.</p> <p>2 Do not reveal those matters. You can reveal matters</p> <p>3 that are based on the public record.</p> <p>4 A. As I said before, I think, to the extent that SB</p> <p>5 14 is designed to increase the integrity of the election</p> <p>6 process and discourage ineligible voters from</p> <p>7 fraudulently voting, that the statement would reflect</p> <p>8 that purpose.</p> <p>9 Q. (By MS. WESTFALL) Notwithstanding all of the</p> <p>10 testimony that you gave earlier today about how voter</p> <p>11 registration is when you say you're a citizen and voting</p> <p>12 and Photo ID Laws stop in-person voter impersonation; is</p> <p>13 that right?</p> <p>14 MR. SWEETEN: Objection to the question as</p> <p>15 argumentative, vague. Also, don't reveal matters of</p> <p>16 legislative privilege in answering the question.</p> <p>17 A. I think what I said earlier was that making</p> <p>18 elections more secure would have the general effect of</p> <p>19 deterring all sorts of voter fraud.</p> <p>20 Q. (By MS. WESTFALL) Do you believe</p> <p>21 Senator Dewhurst -- not Senator -- strike that.</p> <p>22 Do you believe Mr. Dewhurst approved this press</p> <p>23 release before it was released?</p> <p>24 MR. SWEETEN: Objection. Calls for</p> <p>25 speculation. You can answer it if you know.</p>

<p style="text-align: center;">321</p> <p>1 A. I don't know.</p> <p>2 Q. (By MS. WESTFALL) Do press releases go out under</p> <p>3 his name that he doesn't approve of?</p> <p>4 A. I don't know.</p> <p>5 Q. Who would know?</p> <p>6 A. I imagine Mike Walz would know, the press</p> <p>7 secretary.</p> <p>8 Q. And certainly Mr. Dewhurst would know, right?</p> <p>9 A. He might.</p> <p>10 Q. He might know whether he said this or not?</p> <p>11 A. I don't know how many press releases go out and</p> <p>12 whether he signs off on some, or all, or none of them.</p> <p>13 MR. SWEETEN: How are we doing on time?</p> <p>14 MS. WESTFALL: We're getting there.</p> <p>15 MR. SWEETEN: I'm asking the court reporter</p> <p>16 for time total.</p> <p>17 COURT REPORTER: It is 6 hours and 27</p> <p>18 minutes.</p> <p>19 MS. WESTFALL: And I would ask that given</p> <p>20 number of objections that Mr. Dunn be permitted to have</p> <p>21 some time. I'm close to completing my examination for</p> <p>22 the time being, of course, leaving this deposition open,</p> <p>23 but given number of objections, and privilege</p> <p>24 assertions, and discussions between council on this</p> <p>25 subject I would ask your indulgence in allowing Mr. Dunn</p>	<p style="text-align: center;">323</p> <p>1 pending motions to compel on legislative privilege that</p> <p>2 have not yet been ruled upon. There are open questions</p> <p>3 on these issues an it has taken the time for the two of</p> <p>4 us to discuss them on the record.</p> <p>5 MR. SWEETEN: It has been very clear what my</p> <p>6 position was going to be with respect to legislator</p> <p>7 privilege. We've articulated it over and over again</p> <p>8 within filings with the court. You understand what my</p> <p>9 position is on this and you have repeatedly asked</p> <p>10 questions that invade the legislative privilege and</p> <p>11 invade the other privileges we have discussed today.</p> <p>12 Nevertheless there is no point sitting here and debating</p> <p>13 it. I will let you continue your questioning. When Mr.</p> <p>14 Dunn has questions, we will take that matter up then.</p> <p>15 MR. DUNN: And just -- this will probably</p> <p>16 help. I will have very little to no questions.</p> <p>17 MR. SWEETEN: Okay. Yeah. That helps.</p> <p>18 MR. DUNN: I didn't want to interrupt what</p> <p>19 was an awesome oration by both sides.</p> <p>20 MS. WESTFALL: Could you please mark this as</p> <p>21 84?</p> <p>22 (Exhibit No. 84 was marked.)</p> <p>23 Q. (By MS. WESTFALL) You've been handed what's been</p> <p>24 marked U.S. 84. Do you recognize this document?</p> <p>25 A. It talking points for a speech.</p>
<p style="text-align: center;">322</p> <p>1 to have a few moments once I am finished with the exam.</p> <p>2 MR. SWEETEN: Well, I mean the Federal Rules</p> <p>3 allow for 7 hours. You have spent much of this</p> <p>4 deposition asking him about questions that are very,</p> <p>5 very, clearly implicating legislative privilege. We</p> <p>6 have court orders on this subject. You're asking</p> <p>7 questions that are -- that the court is already very</p> <p>8 clearly indicated are matters of privilege. You have</p> <p>9 spent much of your questioning doing that today. So I</p> <p>10 understand that I have objected but I have had to object</p> <p>11 because you have gone way beyond the scope of what is</p> <p>12 permissible with respect to our assertion of this</p> <p>13 privilege and you have done it repeatedly. So my</p> <p>14 response to that is, we'll let Mr. Dunn question the</p> <p>15 witness but as far as your implication that this</p> <p>16 deposition has gone on this long as a result of me. I</p> <p>17 absolutely reject that proposition.</p> <p>18 MS. WESTFALL: Well, I wasn't suggesting</p> <p>19 that. I was saying council had been having, we have</p> <p>20 been having extensive discussions about privilege. I</p> <p>21 have asked repeated questions about communications,</p> <p>22 which are permissible. I have asked repeated questions</p> <p>23 about purpose, which are permissible. We had a</p> <p>24 disagreement about the scope and application of the</p> <p>25 orders that have been ordered in this case. We have</p>	<p style="text-align: center;">324</p> <p>1 Q. Did you draft those?</p> <p>2 A. No.</p> <p>3 Q. Who drafted this?</p> <p>4 A. I don't know.</p> <p>5 Q. Do you see that it is dated May 27, when the bill</p> <p>6 was signed?</p> <p>7 A. Well, there's another date above that. But yes.</p> <p>8 Q. You're right. It looks like there are two dates.</p> <p>9 Could you read for the record those two dates?</p> <p>10 A. One says 5/26/11 and the other one says May 27</p> <p>11 2011.</p> <p>12 Q. Did LRT refer to an individual's initials or</p> <p>13 something else?</p> <p>14 A. I don't know.</p> <p>15 Q. Do you see on the second page, it indicates a</p> <p>16 talking point that generations of Americans have fought</p> <p>17 and died for the principal of one U.S. citizen, one</p> <p>18 vote. Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. And does this document suggest to you that part</p> <p>21 of Mr. Dewhurst's support for the bill was that it is</p> <p>22 protecting the right of U.S. citizens to vote. Is that</p> <p>23 how you would interpret this bullet?</p> <p>24 MR. SWEETEN: When you're answering the</p> <p>25 question don't reveal communications you've had with</p>

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1 Lieutenant Governor Dewhurst. Those are privileged  
2 under legislative privilege and attorney/client  
3 privilege. You can answer to the extent that you are  
4 not revealing matters of privilege.

5 A. I don't know is the short answer. I don't know  
6 if this is the -- the speech he gave. I don't know if  
7 he wrote this draft. So I don't know if it's an  
8 accurate reflection of his purpose, or intent, or  
9 anything else.

10 Q. (By MS. WESTFALL) Who would know?

11 A. I suppose whoever wrote it.

12 Q. And Mr. Dewhurst would also know; is that right?

13 A. Perhaps. Again that's possible. I don't know if  
14 this is his speech or interview that he gave or if it  
15 was just something prepared for his possible use.

16 Q. Thank you.

17 MS. WESTFALL: Could you mark this as 85?

18 (Exhibit No. 85 was marked.)

19 Q. (By MS. WESTFALL) You've been handed what's been  
20 marked as U.S. 85; do you recognize this document?

21 A. Yes.

22 Q. What is it?

23 A. It's talking points on voter ID.

24 Q. And how to you recognize this document?

25 A. I wrote it.

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1 Q. Do you see where, in the first bullet, it refers  
2 to fraudulent registration applicants or applications?

3 A. Yes.

4 Q. And was this -- were these talking points by the  
5 way in support of SB 14?

6 A. I don't recall if they were generally about voter  
7 ID or if they were for a particular bill. I mean, it  
8 says 82 R, but I don't know if it was for -- the timing  
9 of it compared to the legislation.

10 Q. But 82 R referred to?

11 A. 82nd regular session?

12 Q. And that was 2011 was it not?

13 A. Correct.

14 Q. And could you explain why one talking point in  
15 support of photo ID related to fraudulent registration  
16 applicants and listed as an example application  
17 submitted by non-citizens?

18 MR. SWEETEN: Don't reveal matters subject  
19 to the legislative privilege.

20 A. So the question is why are these examples used?

21 Q. (By MS. WESTFALL) Yes.

22 A. They're examples of fraudulent registration  
23 applications.

24 Q. And how does that support the case for photo ID?

25 MR. SWEETEN: Same objection.

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1 A. Right. I mean, on its face it says over 6,000  
2 applications were rejected. That seems to me to  
3 implicate the security of the elections.

4 Q. (By MS. WESTFALL) How does Photo ID Law --  
5 requiring photo ID at the polls on election day, stop  
6 fraudulent registration applications?

7 MR. SWEETEN: Don't reveal matters of  
8 legislative privilege. You can answer.

9 A. I think as I said earlier today, it's additional  
10 levels of security make the elections more secure and  
11 that if an election is more secure, I think fraudulent  
12 voting is less likely, including fraudulent registration  
13 applications.

14 By MS. WESTFALL: Could you mark this as 86?  
15 (Exhibit No. 86 was marked.)

16 Q. (By MS. WESTFALL) You have each been  
17 handed what's been marked as U.S. --

18 MR. SWEETEN: Can I have a copy?

19 MS. WESTFALL: Sure. I don't know.

20 MR. SWEETEN: I'll just look on. That's  
21 fine.

22 Q. (By MS. WESTFALL) Thank you. You've been handed  
23 what's been marked U.S. 86. Do you recognize this  
24 document?

25 A. It's an overview of the process overview by the

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1 Justice Department.

2 Q. And how are you familiar with this document?

3 A. It looks like something I drafted but I'll have  
4 to double-check.

5 Q. Let me know when you've had a chance to review?

6 A. Okay.

7 Q. Did you draft this document?

8 A. I think so.

9 Q. Do you know when you drafted this document?

10 A. I can't be sure if it was 2009 or 2011. Well, it  
11 says, Georgia is the only Section 5 State with the Photo  
12 ID requirement. So I'm guessing that might have been  
13 '07 or '09. I can't remember when Indiana's law went  
14 into effect or any of the other states.

15 Q. And you see that it indicates you wrote about  
16 retrogressive effect in this document?

17 A. Where are we at? Is there a retrogressive  
18 effect? Yes.

19 Q. By the way, to whom was this document circulated?

20 A. I can't recall.

21 Q. Was it internal to the Lieutenant Governor's  
22 office or was it to other Senate staff?

23 A. I can't recall.

24 Q. What was -- what did you do with this document  
25 after you drafted it?

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1 A. It was almost certainly for use in my office. I  
 2 just can't remember if it was also distributed to other  
 3 people or not and by whom.  
 4 Q. Did you have any conversations or discussions  
 5 with anyone about retrogressive effect after you  
 6 circulated this document, within your office?  
 7 MR. SWEETEN: Don't reveal communications  
 8 you had with anyone within your office. Attorney/client  
 9 privilege.  
 10 Q. (By MS. WESTFALL) Well, to the extent there's  
 11 any attorney/client privilege it seems to have been  
 12 ordered to have been produced in this litigation. So  
 13 it's been produced.  
 14 MR. SWEETEN: He doesn't have to reveal  
 15 communications that he's had with anyone in his office  
 16 That's subject to the attorney/client privilege. You  
 17 can ask about the document. I'm freely allowing you to  
 18 ask about the document.  
 19 MS. WESTFALL: I'm asking about  
 20 conversations about the document.  
 21 MR. SWEETEN: You can answer whether  
 22 conversations occurred.  
 23 MS. WESTFALL: And this is not about  
 24 legislative privilege. This is a different privilege,  
 25 Mr. Sweeten. This has now been produced in litigation

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1 I can examine the witness on this document.  
 2 MR. SWEETEN: You can examine him based upon  
 3 the document. That doesn't allow you to go into any  
 4 communications he's had within the realm of the  
 5 attorney/client communication with individuals in his  
 6 office.  
 7 MS. WESTFALL: I disagree with your view of  
 8 attorney/client privilege and what I can examine the  
 9 witness on.  
 10 MR. SWEETEN: So is it your position then  
 11 that in light of this document you can ask any question  
 12 about the attorney/client privilege, because I reject  
 13 that.  
 14 MS. WESTFALL: I can ask him about what  
 15 happened with this document and conversations about this  
 16 document.  
 17 MR. SWEETEN: You can ask him what happened  
 18 with this document, if he had conversations about the  
 19 document, I'm not objecting to that. But he is not  
 20 going to reveal the specifics of his communication  
 21 surrounding the document.  
 22 MS. WESTFALL: In other words you're only  
 23 going to let me examine him about the existence of  
 24 communications and foundational questions; is that what  
 25 you're saying.

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1 MR. SWEETEN: You can ask about the  
 2 existence of them you can ask about this document to the  
 3 extent that whatever you want to ask.  
 4 Q. (By MS. WESTFALL) Did you have any conversations  
 5 with anyone in your office about this document after you  
 6 circulated it?  
 7 MR. SWEETEN: You can answer.  
 8 A. Probably.  
 9 Q. (By MS. WESTFALL) Did you have a conversation  
 10 with Mr. Dewhurst about this document after you  
 11 circulated it?  
 12 A. I don't recall.  
 13 Q. Did you have conversation with Ms. Rathgeber, or  
 14 Mr. Brunson about this document, or Mr. Battle?  
 15 A. Probably all of them.  
 16 Q. Were any steps taken as a result of your  
 17 circulation of this document?  
 18 A. I don't know that it requires steps. It looks  
 19 like it's a summary of State of preclearance, in  
 20 general, and this one opinion, legal review, in  
 21 particular.  
 22 Q. Were there any efforts after you circulated this  
 23 document to determine whether SB 14 or 362, whatever  
 24 bill was at issue when you circulated this memo, whether  
 25 that bill would have an impact on Hispanic and Black

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1 voters disproportionately?  
 2 A. I don't recall any -- I don't recall from the  
 3 public record whether evidence to that effect was  
 4 introduced or not.  
 5 Q. But we're now dealing with a different privilege.  
 6 I'm asking you a different set of questions. Your  
 7 council is letting you be examined -- I realize it's  
 8 late in the day -- based on a different set of  
 9 privileges. I'm asking whether any -- not based on the  
 10 public record -- were any steps taken after you  
 11 circulated this memo concerning retrogressive effect and  
 12 the legal standard, were any steps taken in response to  
 13 the circulation of this memo?  
 14 A. I'm not aware of specific steps. Again, there  
 15 was -- I'm not aware of specific steps.  
 16 Q. And you see underneath retrogressive effect, you  
 17 indicate the issue of less retrogressive alternatives,  
 18 do you see that section?  
 19 A. Right.  
 20 Q. Did you have any conversations about that topic  
 21 with anyone in your office after your circulated this  
 22 memo?  
 23 A. Probably the same list that I gave earlier.  
 24 Q. Ms. Rathgeber, Mr. Brunson?  
 25 A. Mr. Battle.



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1 Q. Anyone else?

2 A. In my office, no.

3 Q. And are you aware of any less retrogressive  
4 alternatives that were pursued after you circulated this  
5 memo?

6 MR. SWEETEN: Don't reveal matters that are  
7 subject to the legislative privilege. In other words,  
8 if you had communications with Legislators, Legislative  
9 Staff, State agencies, Texas Ledge Council, in answering  
10 that question.

11 A. Again, without knowing the timing I can't be  
12 sure. The bills, as I've reviewed them today, have a  
13 sort of spectrum of alternatives. Some, to use your  
14 word, less restrictive than others. But I can't be sure  
15 without knowing when this was produced.

16 Q. (By MS. WESTFALL) Are you aware, at any time,  
17 during consideration of any of the bills to which you've  
18 testified today that there were considerations of less  
19 retrogressive alternatives, based on the legal standard  
20 you set forth in this memo?

21 MR. SWEETEN: In answering the question  
22 don't reveal matters of legislative privilege, don't  
23 reveal discussions she's asking you as to this memo.

24 A. The question is: Was there consideration of --

25 Q. (By MS. WESTFALL) Less retrogressive

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1 alternatives?

2 A. I think there were consideration of lots of  
3 things, I suppose, yes.

4 Q. What were those alternatives?

5 A. I don't recall specifically.

6 Q. Do you see underneath, you list Mitigating  
7 Effects. Do you see that?

8 A. Uh-huh.

9 Q. By the way, before I ask a question about that.  
10 Do you see the number indicated at the top right-hand  
11 corner? 552.111?

12 A. It looks -- I see a number. It looks like it  
13 might be 557.

14 Q. You may be right. Does this indicate to you --  
15 do you have any indication of an internal number that  
16 would help you to remember when you wrote this document?

17 A. No.

18 Q. Okay. Do you see where you write about  
19 mitigating effects in this document?

20 A. I do.

21 Q. Did you have conversations about mitigating  
22 effects with the same persons in your office you  
23 testified to earlier?

24 A. I probably discussed each of those things with  
25 Mr. Brunson, Ms. Rathgeber, and Mr. Battle since it was

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1 essentially a summary of that one opinion, is what it  
2 appears to be.

3 Q. And do you see here you list education efforts  
4 targeted among minority communities?

5 A. Yes.

6 Q. And I believe we just testified about an  
7 amendment offered to provide voter education to minority  
8 communities that was not adopted by the Senate; is that  
9 correct?

10 A. Yes, you did mention that.

11 Q. So ultimately Senate Bill 14 does not include  
12 such education efforts that are targeted to minority  
13 communities. Is that correct?

14 A. I don't recall that it does.

15 Q. And does Senate Bill 14 include any program  
16 designed to provide photo ID's in isolated or  
17 impoverished areas?

18 A. Does it include those?

19 Q. In the bill, as passed?

20 A. I don't think it does.

21 Q. And are there any other programs that were  
22 designed to minimize the impact of the bill on minority  
23 voters included in Senate Bill 14 as passed?

24 MR. SWEETEN: In answering the question  
25 don't reveal matters that are subject to legislative

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1 privilege. That includes thoughts, mental impressions,  
2 opinions about legislation or in furtherance of the  
3 legislative process, including communications with  
4 legislators or legislative staff. Okay?

5 A. I think the voter education provision and the  
6 free education -- I mean, Election ID Certificate  
7 arguably are designed to minimize the impact of minority  
8 voters.

9 Q. (By MS. WESTFALL) Thank you. And anything else  
10 in Senate Bill 14?

11 A. I'm not sure. I'd have to review it.

12 Q. Thank you.

13 MS. WESTFALL: Could you mark this as 87.  
14 (Exhibit No. 87 was marked.)

15 Q. (By MS. WESTFALL) I've handed you what's been  
16 marked as U.S. 87. Do you recognize this document?

17 A. No. It looks like it's a letter to Governor  
18 Perry, Lieutenant Governor Dewhurst.

19 Q. Okay.

20 MS. WESTFALL: Can you mark this as 88,  
21 please?

22 (Exhibit No. 88 was marked.)

23 Q. (By MS. WESTFALL) You've been handed what's been  
24 marked as U.S. 88; do you recognize this document?

25 A. It looks like it's a letter to Mr. Beck from

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1 Lieutenant Governor Dewhurst.  
 2 Q. Is Mr. Beck presumably a constituent?  
 3 A. He lives in Texas so, yes.  
 4 Q. And who drafts responses to constituent mail in  
 5 Mr. Dewhurst's office?  
 6 A. It depends. Sometimes it's the staff. Sometimes  
 7 it's the press office. Sometimes it's a combination.  
 8 Q. Do you see in the second paragraph where it says,  
 9 Voter ID will help stamp out voter fraud and increase  
 10 public confidence in our election process by insuring  
 11 that only U.S. citizens who are legally eligible vote in  
 12 Texas elections?  
 13 A. I see that.  
 14 Q. Do you see that this letter is dated February 8,  
 15 2011?  
 16 A. Yes.  
 17 Q. So it was right after the Senate passed Senate  
 18 Bill 14; is that right?  
 19 A. Uh-huh. Yes.  
 20 Q. Can you explain why Mr. Dewhurst would assert  
 21 that it would -- voter ID would help ensure that only  
 22 U.S. citizens are voting in Texas elections?  
 23 MR. SWEETEN: Objection. Calls for  
 24 speculation. Also asks him to reveal thoughts, mental  
 25 impressions, opinions about legislation. Also requires

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1 him to reveal communications with Lieutenant Governor  
 2 Dewhurst. If you can answer the question without  
 3 revealing matters of legislative privilege or matters of  
 4 related to the attorney/client confidentiality then you  
 5 can answer the question.  
 6 A. I guess I would refer to my earlier answers to  
 7 similar questions. The bill -- the purpose of the bill  
 8 is to ensure that elections are secure. That includes,  
 9 meaning that -- the meaning that voters are eligible to  
 10 vote and if you're not a U.S. citizen then you're not  
 11 eligible to vote. So that's the connection.  
 12 Q. (By MS. WESTFALL) And Remember when I asked you  
 13 about the purposes of Senate Bill 14 and you said ensure  
 14 election integrity, increase voter confidence, do you  
 15 remember that?  
 16 A. Huh-uh.  
 17 Q. And do you remember when I asked you whether the  
 18 -- one of the purposes advanced by Mr. Dewhurst was to  
 19 prevent non-citizens from voting in elections and you  
 20 responded, no; do you remember that?  
 21 A. I think I said, no, except to the extent it ties  
 22 into making sure all voters are eligible.  
 23 Q. Does this letter, Exhibit 88, cause you in any  
 24 way to modify your testimony about Mr. Dewhurst's  
 25 purpose in advancing Senate Bill 14?

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1 A. No.  
 2 Q. Was one of Mr. Dewhurst's purposes in advancing  
 3 and promoting Senate Bill 14 to prevent non-citizens  
 4 from voting?  
 5 MR. SWEETEN: Objection. You're asking for  
 6 him to glean the subjective intent of Lieutenant  
 7 Governor Dewhurst and that is a matter that is outside  
 8 of what -- of the purpose question that you've been  
 9 asking so I'm going to object to him answering that  
 10 question based upon the court's order.  
 11 Q. (By MS. WESTFALL) Are you following the advice  
 12 of council?  
 13 A. Yes.  
 14 Q. Who is Jesse Ancira?  
 15 A. Ancira.  
 16 Q. Ancira.  
 17 A. I believe he is general counsel for Speaker Joe  
 18 Strauss.  
 19 Q. Does he handle voter ID for Speaker Strauss?  
 20 A. I don't know his exact role on that issue.  
 21 MS. WESTFALL: Could you mark this as 89?  
 22 (Exhibit No. 89 was marked.)  
 23 Q. (By MS. WESTFALL) You have been handed what's  
 24 marked as U.S. 89; do you recognize this document?  
 25 A. Looks like an overview of voter ID issues, like a

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1 sort of talking points.  
 2 Q. Did you draft this?  
 3 A. I think I did.  
 4 Q. Do you see at the bottom where it says, likely  
 5 questions from opponents?  
 6 A. Yes.  
 7 Q. Do you see it doesn't include anything about  
 8 concerns about impact of minority voters?  
 9 A. I'm sorry, repeat.  
 10 Q. It doesn't include any questions about, what's  
 11 the impact on minority voters.  
 12 A. That is not one of the three questions.  
 13 Q. Right. Is there a reason --  
 14 A. Other than -- I'm sorry.  
 15 Q. Pardon?  
 16 A. Other than perhaps the last one, what about  
 17 people who do not have access to photo ID?  
 18 Q. Is there a reason why you didn't have any concern  
 19 or list a likely question from opponents related to  
 20 minority voters?  
 21 MR. SWEETEN: You're asking for him to  
 22 reveal his thoughts and mental impressions when he is  
 23 formulating this document. That is matter of  
 24 legislative privilege and I'm asserting that objection.  
 25 It also is matter potentially that impacts the

<p style="text-align: center;">345</p> <p>1 Q. Were you able to locate 85 for me?</p> <p>2 A. Yes.</p> <p>3 Q. Now, if I understand your earlier testimony you</p> <p>4 prepared and drafted Exhibit 85?</p> <p>5 A. I believe that is correct.</p> <p>6 Q. I would like that go through a few of these</p> <p>7 statements. The first one we can skip the first one.</p> <p>8 I'm interested in the second one. "Fraudulent</p> <p>9 registration applications are rampant." Do you see that</p> <p>10 sentence?</p> <p>11 A. Yes.</p> <p>12 Q. And there's a parenthetical after that?</p> <p>13 A. Correct.</p> <p>14 Q. Where did you get that information?</p> <p>15 MR. SWEETEN: In answering the question I</p> <p>16 don't want you to reveal thoughts or mental impressions</p> <p>17 about legislation or conversations that you had with</p> <p>18 legislators or legislative staff. Those would be</p> <p>19 subject to the legislative privilege.</p> <p>20 A. Sure. It says they made national news. I think</p> <p>21 they're from various newspaper accounts at the time.</p> <p>22 Q. (By MR. DUNN) Well, you think or you know.</p> <p>23 A. I don't know how else I would have gotten them.</p> <p>24 Q. All right. Did you get that information from</p> <p>25 officers in Harris County?</p>	<p style="text-align: center;">347</p> <p>1 Paragraph 2 of Exhibit 85, from testimony Harris County</p> <p>2 Officials gave. Is that right? Is that what I'm</p> <p>3 hearing you say?</p> <p>4 A. It's possible.</p> <p>5 Q. Alright. As you sit here today, if I can sort of</p> <p>6 boil down what I think you said, you either got this</p> <p>7 from Harris County Officials, or the news, or you simply</p> <p>8 just don't recall; is that right?</p> <p>9 A. I think I said I probably got it from the news</p> <p>10 but it's possible I got it from those other sources or</p> <p>11 some other source.</p> <p>12 Q. Are you aware of a lawsuit settled by Harris</p> <p>13 County in the lead up to the 2010 election related to</p> <p>14 how they handled voter registration applications?</p> <p>15 A. No.</p> <p>16 Q. Are you aware that Harris County ultimately</p> <p>17 entered into a consent decree where -- that</p> <p>18 significantly scaled back the number of applications</p> <p>19 that were rejected?</p> <p>20 A. No.</p> <p>21 Q. Are you aware that Harris County rejected nearly</p> <p>22 68,000 voter registration applications in the lead up to</p> <p>23 the 2008 election?</p> <p>24 A. I'm not familiar with that number.</p> <p>25 Q. With respect to the allegation here that's 6,000</p>
<p style="text-align: center;">346</p> <p>1 A. I can't recall.</p> <p>2 MR. SWEETEN: Same objection with respect to</p> <p>3 your mental impressions about the legislative process.</p> <p>4 Don't reveal those in communications that would be</p> <p>5 protected as we've discussed. But you can answer based</p> <p>6 on matters of the public record or based on the document</p> <p>7 itself.</p> <p>8 A. I can't recall. I'm pretty sure it was from the</p> <p>9 news.</p> <p>10 Q. (By MR. DUNN) You're pretty sure you got it from</p> <p>11 a news source; is that true?</p> <p>12 A. Correct.</p> <p>13 Q. Now, I assume that somebody employed for the</p> <p>14 Lieutenant Governor you had the ability to call local</p> <p>15 officials an discuss facts and circumstances with them?</p> <p>16 A. I suppose that's true.</p> <p>17 Q. All right. Did you contact anybody with the</p> <p>18 Harris County Voter Registration Office to confirm any</p> <p>19 of this information?</p> <p>20 A. I don't recall and I don't -- again, without</p> <p>21 knowing the date of it it's possible that Harris County</p> <p>22 officials I think were involved in the testimony in '07</p> <p>23 or '09. I can't remember if it was one or both of those</p> <p>24 years.</p> <p>25 Q. So you might have drawn this conclusion,</p>	<p style="text-align: center;">348</p> <p>1 applications by non-citizens where rejected by Harris</p> <p>2 County from 2004 to 2007, is your testimony the same</p> <p>3 that you either got that from the news, from Harris</p> <p>4 County Officials, or that you don't remember?</p> <p>5 A. I do not remember the exact source of those</p> <p>6 numbers. Again, I think I probably got them from news</p> <p>7 accounts.</p> <p>8 Q. So if the facts and circumstances demonstrate</p> <p>9 that the 6,000 applications rejected were rejected</p> <p>10 because people simply didn't check whether they were a</p> <p>11 citizen, you don't know one way or the other?</p> <p>12 A. I'm not familiar it.</p> <p>13 Q. Is it possible people submit applications and</p> <p>14 forget to check that they are citizen. They actually</p> <p>15 are citizens; is that true?</p> <p>16 MR. SWEETEN: Objection. Calls for</p> <p>17 speculation. You can answer.</p> <p>18 A. I don't know if it's true. I know it's possible.</p> <p>19 Q. (By MR. DUNN) You don't know much about voter</p> <p>20 registration in terms of the laws and how voter</p> <p>21 registration applications are actually processed in an</p> <p>22 office. Is that something you have some expertise in?</p> <p>23 A. I've never done it. I'm generally familiar with</p> <p>24 it.</p> <p>25 Q. You're familiar with the statutes?</p>

<p style="text-align: center;">349</p> <p>1 A. Correct.</p> <p>2 Q. Okay. But have you ever been involved in either</p> <p>3 administering or working in an office that process</p> <p>4 applications?</p> <p>5 A. No.</p> <p>6 Q. Now, I notice under your threat of, Fraud is</p> <p>7 Real, talking point here in Exhibit 85 that the only</p> <p>8 example given here that has an explanation is the Harris</p> <p>9 County. Let me rephrase that. The only one of these</p> <p>10 evidences of the threat of fraud that gives an actual</p> <p>11 example is the Harris County example; would you agree?</p> <p>12 A. Well, there -- it says Acorn in 2008, the team</p> <p>13 system in general. I mean, I'm not sure when you say an</p> <p>14 example. It just says 6,000 applications by</p> <p>15 non-citizens rejected in Harris County and then there</p> <p>16 are two other examples after that. I don't think it</p> <p>17 directly involved Harris County.</p> <p>18 Q. What was it about the 2008 Acorn and 2010 Houston</p> <p>19 vote registration situations that, quote, made them</p> <p>20 scandals that made national news?</p> <p>21 A. The fact that they were widely reported and were</p> <p>22 relatively recent to what I assume was the time of the</p> <p>23 production of this memo that made them relevant.</p> <p>24 Q. Do you remember any details about them?</p> <p>25 A. The 2008 A corn and 2010 Houston votes?</p>	<p style="text-align: center;">351</p> <p>1 certainly AP Papers were part of that.</p> <p>2 Q. Now, the next line says, Texas Election</p> <p>3 Administration Management System is improving. And how</p> <p>4 so; how was it improving?</p> <p>5 A. My memory is that the Texas Election</p> <p>6 Administration and Management System was designed to do</p> <p>7 sort of, eventually real-time update the State voter</p> <p>8 rolls based on submissions of whether data -- whether</p> <p>9 voters are alive or dead or eligible or not. And that</p> <p>10 there were some initial technical problems but other</p> <p>11 problems in keeping that accurate. But that I recall</p> <p>12 Secretary of State testimony that it was getting better.</p> <p>13 Q. But it was continuing to have accuracy problems</p> <p>14 according to your statement in Exhibit 85; is that true?</p> <p>15 A. I think there were still in eligible voters</p> <p>16 listed on the team system in my memory.</p> <p>17 Q. From where did you gather that information?</p> <p>18 A. I think from Secretary of State testimony and</p> <p>19 Committee.</p> <p>20 Q. And so how was it that Senate Bill 14 has either</p> <p>21 proposed or ultimately passed was going to resolve the</p> <p>22 team accuracy problems?</p> <p>23 MR. SWEETEN: I'm going the object. I think</p> <p>24 you're asking for matters that are subject to the</p> <p>25 legislative privilege, including his opinions, his</p>
<p style="text-align: center;">350</p> <p>1 Q. Yes, sir.</p> <p>2 A. My memory is that there were, I mean, I remember</p> <p>3 a particular story where, again, the news account was</p> <p>4 someone registered in the name of Mickey Mouse, or Troy</p> <p>5 Aikman, or clearly fictional people. There were other</p> <p>6 larger examples.</p> <p>7 Q. And it's your recollection that those fictional</p> <p>8 registrants actually got on the rolls in Harris County</p> <p>9 Texas?</p> <p>10 A. I don't recall.</p> <p>11 Q. Do you recall that, if not the name of the</p> <p>12 publication, the types of publications that reported</p> <p>13 these events?</p> <p>14 A. I believe it was a major state newspapers.</p> <p>15 Q. Like the Houston Chronicle or Dallas Morning</p> <p>16 News.</p> <p>17 A. Correct.</p> <p>18 Q. Not in other words organizations that have more</p> <p>19 of a political bend?</p> <p>20 A. It was probably all of those. It wasn't one type</p> <p>21 of information in my memory.</p> <p>22 Q. Let me ask it from this angle. The media</p> <p>23 accounts that you relied upon in preparing Exhibit 85,</p> <p>24 are these AP Member Papers?</p> <p>25 A. I don't recall every source I used. But</p>	<p style="text-align: center;">352</p> <p>1 thoughts, mental impressions about Senate Bill 14. So</p> <p>2 I'm going to object on that basis. You can answer based</p> <p>3 upon the public record.</p> <p>4 A. It looks like the heading of No. 1 is, The Threat</p> <p>5 of Fraud is Real. And these look like examples of</p> <p>6 throats of fraud which is one ground that the Supreme</p> <p>7 Court has said is justifies voter ID laws in general.</p> <p>8 Q. (By MR. DUNN) Is it your opinion that Senate</p> <p>9 Bill 14 will improve the accuracy problems with the team</p> <p>10 system?</p> <p>11 MR. SWEETEN: Same objection. Don't reveal</p> <p>12 matters that are subject to the legislative privilege</p> <p>13 including communications with State Agencies,</p> <p>14 communications we've outlined previously. Don't reveal</p> <p>15 matters, thoughts, or impressions about the bill. So to</p> <p>16 the extent you can answer, based upon the public record,</p> <p>17 you're free to do so.</p> <p>18 A. I don't think that SB 14 or Voter ID Law will</p> <p>19 improve team but it will at least as we stated before it</p> <p>20 will have the general purpose of improving the integrity</p> <p>21 of the elections. Which if the team system is</p> <p>22 inaccurate and there are in eligible voters, I think</p> <p>23 those in eligible voters are probably less likely to</p> <p>24 cast a vote.</p> <p>25 Q. (By MR. DUNN) Well, assuming that the team</p>

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1 system is inaccurate, there's sort of -- it appears to  
 2 me to be at least two possible solutions. One was the  
 3 -- I suppose your argument, adoption SB 14. Another  
 4 would be to actually address the team system and  
 5 implement reforms in that system. Would you agree?  
 6 MR. SWEETEN: Don't reveal thoughts and  
 7 mental impressions about the bill. Those are subject to  
 8 the legislative privilege. You can answer to the  
 9 extent, you can refer to matters of public record. But  
 10 don't reveal matters that are subject to the legislative  
 11 privilege.  
 12 A. Right. I think if you wanted to improve the team  
 13 system you -- there's lots of ways you could to that.  
 14 Q. (By Ms. Montgomery) Lots of ways that you could  
 15 improve the team system independent from what SB 14 did,  
 16 is that true?  
 17 A. True.  
 18 Q. Is it true that the overarching concern that you  
 19 express in Exhibit 85 under Threat of Fraud is Real  
 20 section is the inaccuracy -- is generally the inaccuracy  
 21 of the State's voter registration databases; is that the  
 22 overarching concern expressed here?  
 23 A. Let me take a look. Looks like registration  
 24 fraud, inaccurate rolls, and inadequate ability to catch  
 25 in-person fraud are the three general umbrellas of fraud

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1 listed there.  
 2 Q. Your first bullet is Inaccurate Registration  
 3 Rolls. Your second bullet is Registration Problems in  
 4 Harris County. Your third bullet is the Team System,  
 5 which is the registration database, having accuracy  
 6 problems; is that right? Those are the first three  
 7 bullets?  
 8 A. Right.  
 9 Q. And then the fourth one is, we have this  
 10 inadequate system to catch in-person voter fraud; is  
 11 that correct?  
 12 A. That's what I said, yeah.  
 13 Q. Okay. Now if you would go with me -- is this --  
 14 before we do that. On Exhibit 85, is this all of 85?  
 15 A. I don't recall for sure. I think it is.  
 16 Q. And to whom did you deliver 85?  
 17 A. I don't recall, as I stated earlier. Probably my  
 18 staff and I don't recall who else might have received  
 19 it.  
 20 Q. Who was your staff?  
 21 A. The people mentioned earlier. Blaine Brunson and  
 22 Julie Rathgeber, our Chief of Staff and Policy Director,  
 23 and possibly Frank Battle, our general counsel.  
 24 Q. Would anybody have participated in drafting the  
 25 document?

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1 A. I can't recall if that was meant to be a summary  
 2 of the Supreme Court opinion or if that was intended to  
 3 be some sort of -- serve some other purpose.  
 4 Q. Were there any earlier drafts to Exhibit 85 other  
 5 than the one that we have here before us?  
 6 A. I don't recall.  
 7 Q. Do you recall at what point -- strike that.  
 8 At the top of Exhibit 85, at the sort of title it  
 9 says, 82 R. I assume that's 82nd regular session?  
 10 A. Correct.  
 11 Q. Can you recall whether that was prepared prior to  
 12 the beginning of session, or in the middle of it, or  
 13 after the end?  
 14 A. Not at the end. Well, probably not at the end.  
 15 I don't recall when otherwise.  
 16 Q. So other than not being at the end, you can't  
 17 otherwise nail down when Exhibit 85 was prepared by you?  
 18 A. Correct.  
 19 Q. Now, go with me to Exhibit 86.  
 20 A. Okay.  
 21 Q. I know I'm probably going to ask a question or  
 22 two that you were already asked, but I couldn't hear and  
 23 I didn't want to interrupt during that part of the  
 24 review, but why was 86 drafted?  
 25 A. Why was it drafted?

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1 Q. Yes, sir.  
 2 A. My memory is, it's intended to give an overview  
 3 of the preclearance process and overview of a memo  
 4 issued by the Department of Justice.  
 5 Q. There was -- I didn't quite understand that.  
 6 There was a memo issued by the Department of Justice  
 7 that you were summarizing?  
 8 A. Here in the middle Standard Legal Review it says  
 9 the 2005 Department of Justice Legal Review of the  
 10 Georgia law that refers to a memo by the Department of  
 11 Justice.  
 12 Q. Alright. And how did you obtain that memorandum?  
 13 A. It's publicly available.  
 14 Q. Other than the memoranda, did you obtain anything  
 15 else in order to prepare Exhibit 86?  
 16 A. I don't recall.  
 17 Q. Did anybody else help you participate in the  
 18 drafting of 86?  
 19 A. It's possible our general counsel Frank Battle  
 20 looked at it.  
 21 Q. Were there any other earlier drafts of 86?  
 22 A. I don't recall.  
 23 Q. Now, if you need to take a minute to review it, I  
 24 would like you to do so. Tell me if there's anything in  
 25 86 that, as of today, that you disagree with or you

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1 think you got incorrect in this memo.  
 2 A. Georgia is not the only State with photo ID  
 3 requirement anymore. I would have to review the Georgia  
 4 memo again to be sure that each of these summarizing  
 5 points about the content of the memo are correct, but  
 6 I'll assume they are.  
 7 Q. Well, you were preparing this to be relied upon,  
 8 I'm sure, by at least the Lieutenant Governor if not  
 9 other members of the Legislature, is that true?  
 10 A. I can't recall who it was for, who the intended  
 11 audience was for.  
 12 Q. Well, you would agree that you were somewhat  
 13 careful in the preparation of Exhibit 86?  
 14 A. I hope so.  
 15 Q. All right. Now, if you go with me to the  
 16 underlying section; Is there a Retrogressive Effect, do  
 17 you see that?  
 18 A. Yes.  
 19 Q. And the first question is: Did Texas produce or  
 20 consider any evidence regarding whether Hispanics or  
 21 Blacks are less likely to possess or obtain a photo ID.  
 22 Did I read that correctly?  
 23 A. Correct.  
 24 Q. What's the answer to that question?  
 25 MR. SWEETEN: You can answer the question to

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1 the extent that you are not revealing information that's  
 2 subject to the legislative privilege and concluding  
 3 communications with legislatures, legislative staff,  
 4 State Agencies. Also do not reveal your thoughts,  
 5 mental impressions, or opinions about legislation,  
 6 including Senate Bill 14. You can refer to matters of  
 7 the public record in answering the question or the  
 8 specific memo itself.  
 9 A. My memory is that that was discussed in the  
 10 public hearing, probably in each of the years that we  
 11 discussed today. And I'll assert privilege as to  
 12 internal communications.  
 13 Q. (By MR. DUNN) All right. Well, I just want to  
 14 focus on, without prejudice to our argument on  
 15 privilege. My questions are just going to focus on what  
 16 you know that's in the public record. All right?  
 17 A. Okay.  
 18 Q. What information do you have that's in the public  
 19 record that Texas produced or considered regarding  
 20 whether Hispanics or Blacks are less likely to possess  
 21 or obtain a photo ID?  
 22 A. I believe there was testimony from Texas  
 23 Department of Transportation and from the Secretary of  
 24 State. And I know evidence from other states was also  
 25 discussed.

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1 Q. Do you remember if there was any analysis  
 2 actually performed on whether or not Hispanics or  
 3 African Americans were less likely to possess a photo  
 4 ID?  
 5 MR. SWEETEN: You're asking as to matters of  
 6 public record?  
 7 MR. DUNN: Yes, that's all.  
 8 A. And you're talking about for Texas, Hispanics and  
 9 Blacks or for --  
 10 Q. (By MR. DUNN) For Texas Hispanics and Blacks.  
 11 A. I don't recall whether that was introduced into  
 12 the testimony or not.  
 13 Q. You can't think of any examples of such report as  
 14 you sit here today?  
 15 A. I think that's -- that were introduced into  
 16 public testimony, I think that's right.  
 17 Q. The next question is, how did the minority  
 18 members of the legislature vote on the proposed changes  
 19 in the law? Again, constricting your answer to the  
 20 public record, what's the answer to that question with  
 21 respect to Senate Bill 14?  
 22 A. I'd have to review it to be sure. But I think  
 23 minority members voted against the law.  
 24 Q. Can we agree that nearly all of them, if not all  
 25 of them voted against the law in both the House and the

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1 Senate?  
 2 A. The House, I'm less comfortable saying so but  
 3 yes.  
 4 Q. The next section, Is there a less retrogressive  
 5 alternative. And the first question is: Are non-photo  
 6 documents, birth certificate, social security cards, et  
 7 cetera, proven to be unreliable or lack security? Is  
 8 there evidence of that forgery or fraud. Did I read  
 9 that correctly?  
 10 A. Correct, yes.  
 11 Q. How does Senate Bill 4 measure up to that  
 12 question, using only the public record?  
 13 MR. SWEETEN: You can answer based upon the  
 14 public record. Otherwise object, legislative privilege.  
 15 A. Senate Bill 14 does not include non-photo  
 16 documents except in some cases. Again, I think there  
 17 was a disability exception that you could present just a  
 18 voter registration card without a photo.  
 19 Q. (By MR. DUNN) Did you -- is there any record or  
 20 evidence in the public record about birth certificates  
 21 proven to be unreliable or lack security?  
 22 A. I think my memory is there was general discussion  
 23 about non-photo IDs being inherently unreliable because  
 24 you could never be certain that the person holding a  
 25 paper document was the actual person eligible to vote.



<p style="text-align: center;">361</p> <p>1 Q. From whom was that testimony given?</p> <p>2 A. I think it was lots of people. My sense is that</p> <p>3 it was stated as a matter of fact.</p> <p>4 Q. Did that testimony in your view prove that a</p> <p>5 birth certificate was unreliable or lacked security?</p> <p>6 MR. SWEETEN: You're asking him to reveal</p> <p>7 his thoughts an mental impressions about legislation in</p> <p>8 consideration of evidence and you're asking his -- what</p> <p>9 you're asking is a matter that is legislatively</p> <p>10 privileged. Again he can refer to what he heard on the</p> <p>11 public record and he can refer specifically to the</p> <p>12 document. But as to his thought processes and mental</p> <p>13 impressions or communications that I have previously</p> <p>14 asserted, I'm going to instruct you not to answer based</p> <p>15 upon that.</p> <p>16 A. I guess I would answer that this doesn't say, are</p> <p>17 birth certificates unreliable? It says, are any</p> <p>18 non-photo documents unreliable or do they lack security?</p> <p>19 i.e. Are they more open to fraud or forgery? And so I</p> <p>20 guess as I sit here today that the answer would be yes.</p> <p>21 Q. (By MR. DUNN) So it's your opinion that the</p> <p>22 public record testimony or other supports for this bill</p> <p>23 demonstrated or to use the word in the memorandum</p> <p>24 Exhibit 86, prove then that birth certificates and</p> <p>25 social security cards were unreliable or lacked security</p>	<p style="text-align: center;">363</p> <p>1 MR. SWEETEN: Again, in answering that</p> <p>2 question, I don't want you to reveal thoughts, mental</p> <p>3 impressions, or opinions about legislation or</p> <p>4 communications that we've outlined previously. Those</p> <p>5 are subject to the legislative privilege.</p> <p>6 A. I can't recall what, or if any, public testimony</p> <p>7 touched on those items.</p> <p>8 Q. (By MR. DUNN) Well, in asking just your opinion</p> <p>9 based upon the public record, was there a less</p> <p>10 retrogressive alternative to address the concerns, if</p> <p>11 there were any on voter fraud, other than Senate Bill</p> <p>12 14?</p> <p>13 MR. SWEETEN: Do you understand the</p> <p>14 question? He's confining it to matters of the public</p> <p>15 record. Don't reveal internal thought processes,</p> <p>16 discussions. You can answer as to the public record.</p> <p>17 A. Right. I guess it depends on what we mean by</p> <p>18 alternative. Is it less retrogressive alternative to</p> <p>19 the bill or a less retrogressive alternative that's</p> <p>20 still insures secure elections. So I guess my short</p> <p>21 answer is, I don't know.</p> <p>22 Q. (By MR. DUNN) What did you mean here in Exhibit</p> <p>23 86 when you used the term less retrogressive</p> <p>24 alternative?</p> <p>25 A. Well, I think this is intended to be a summary of</p>
<p style="text-align: center;">362</p> <p>1 measures. Is that true?</p> <p>2 A. I would have to review the records. I would say</p> <p>3 it speaks for itself probably.</p> <p>4 Q. Now, the next question, is there evidence that</p> <p>5 criminal penalties are sufficient to deter voter fraud;</p> <p>6 did I read this correctly?</p> <p>7 A. Yes.</p> <p>8 Q. What is the answer to that question with respect</p> <p>9 to Senate Bill 14, using only the public record?</p> <p>10 MR. SWEETEN: Don't reveal matters of</p> <p>11 legislative privilege. You can answer.</p> <p>12 A. My memory of the -- I don't recall from the</p> <p>13 public record.</p> <p>14 Q. (By Ms. Montgomery) The next question is: Are</p> <p>15 there additional forms of photo ID that can be accepted</p> <p>16 for voting? Did I read that correctly?</p> <p>17 A. Yes.</p> <p>18 Q. What is the answer to that question using only</p> <p>19 the public record for Senate Bill 14?</p> <p>20 A. The -- it is not every type of photo ID that is</p> <p>21 acceptable under SB 14.</p> <p>22 Q. So with regard to the questions here under Is</p> <p>23 there a less retrogressive alternative, you can't</p> <p>24 provide testimony today whether Senate Bill 14 presents</p> <p>25 the least retrogressive alternative or not is that true?</p>	<p style="text-align: center;">364</p> <p>1 the 2005 DOJ opinion -- staff opinion.</p> <p>2 Q. So in trying to summarize the DOJ staff opinion</p> <p>3 as it related to Georgia, is it your testimony you</p> <p>4 weren't able to understand what a less retrogressive</p> <p>5 alternative meant to the DOJ?</p> <p>6 A. And to the DOJ reviewing the Georgia law it</p> <p>7 probably meant a less retrogressive alternative than</p> <p>8 that implemented by law.</p> <p>9 Q. And is it your opinion based upon the public</p> <p>10 record and your research of the Georgia law and Senate</p> <p>11 Bill 14 that Texas's Senate Bill 14 is less</p> <p>12 retrogressive than the Georgia law?</p> <p>13 MR. SWEETEN: Objection you're asking for</p> <p>14 his mental impressions about legislation particularly</p> <p>15 Senate Bill 14. That is a matter of legislative</p> <p>16 privilege.</p> <p>17 A. The question is: Is the SB 14, in my opinion,</p> <p>18 less retrogressive than --</p> <p>19 Q. (By MR. DUNN) The Georgia law?</p> <p>20 MR. SWEETEN: Don't reveal thoughts, mental</p> <p>21 impressions regarding the legislation or communications</p> <p>22 you've had with legislators of the other enumerated</p> <p>23 groups I've been talking about today.</p> <p>24 A. Sure. I would have to review the Georgia law to</p> <p>25 be sure.</p>

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1 Q. (By MR. DUNN) Now, the next section says, Does  
2 the new law include mitigating effects? The first  
3 sentence is, Are photo IDs free of charge and widely  
4 available? Is that true under Senate Bill 14?

5 A. I believe it is, yes.

6 MR. SWEETEN: Same objection.

7 Q. (By MR. DUNN) What information do you have from  
8 the public record that the free ID's that can be  
9 obtained from DPS are widely available?

10 A. I recall testimony about the number of DPS  
11 offices and other locations to obtain the photo IDs.

12 Q. Did you recall that from the public record that  
13 there were a number of locations in the State that were  
14 hundreds of miles from the local DPS office?

15 A. I don't recall the number of miles.

16 Q. Do you recall any testimony or evidence that some  
17 DPS offices even in urban locations though close in  
18 proximity to citizens have extraordinary wait times?

19 A. I do recall a discussion about wait times at  
20 offices and I think it was in the context of pending  
21 litigation -- I mean, pending legislation designed to  
22 address those areas that were having long wait times.

23 Q. What do you recall and those wait times?

24 A. That some people had to wait a long time.

25 Q. Do you remember what locations that occurred at?

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1 A. I think my memory is that Houston was mentioned.  
2 But I don't remember what other locations.

3 Q. Do you remember which location in Houston?

4 A. No.

5 Q. Do you remember any information in the public  
6 record on whether or not there were locations at the DPS  
7 offices with long wait times and where those offices  
8 were in relation to minority population centers?

9 A. My memory is that it was opponents of the bill  
10 arguing that, as you said, minority populations would be  
11 adversely impacted by that.

12 Q. Did you see any evidence in the public record to  
13 contest that allegation made by minority representatives  
14 or Senators?

15 A. I believe the questions were directed to a  
16 Department of Transportation official and I don't recall  
17 her exact responses.

18 Q. In terms of posing these question that you posed  
19 in Exhibit 86, did you undertake any effort to answer  
20 these questions as they applied to Senate Bill 14?

21 MR. SWEETEN: In answering his question  
22 don't reveal mental impressions, opinions about  
23 legislation or communications that you had with the  
24 individuals we've enumerated previously. You can answer  
25 as to matters of the public record.

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1 A. Right. I don't recall any -- I don't think I  
2 publicly addressed these.

3 Q. (By MR. DUNN) Do you know -- well, let me ask it  
4 this way. Did you direct anybody to go about answering  
5 these questions in Exhibit 86 as they applied to Senate  
6 Bill 14?

7 A. In public or internally?

8 Q. Anywhere. Not asking the result of the review,  
9 just asking if you're aware -- well, not aware, if you  
10 assigned anybody the project of answering these  
11 questions in Exhibit 86 as they applied to Senate Bill  
12 14?

13 A. I'll assert the privilege earlier mentioned.

14 Q. Do you know whether there was any review by any  
15 party starting publicly as to the questions that you  
16 pose in Exhibit 86 as to Senate Bill 14?

17 MR. SWEETEN: Caution you on legislative  
18 privilege. Don't reveal communications or your thoughts  
19 or mental processes regarding legislation.

20 A. Right. I'll assert legislative privilege.

21 Q. Where are we on time?

22 THE REPORTER: He's been on the record  
23 28 minutes.

24 MR. DUNN: I probably have five to seven  
25 more minutes.

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1 Now, skipping down to the, How does the law  
2 compare to laws of other states, is it more or less  
3 restrictive than the identification laws in other  
4 states? Did you conduct an analysis to answer that  
5 question?

6 MR. SWEETEN: Don't reveal your thoughts,  
7 mental processes, impressions about legislation in  
8 answering the question or communications that you've had  
9 with legislators, staff, State Agencies, Texas Ledge  
10 Council.

11 Q. (By MR. DUNN) And again, I'm going to withdraw  
12 that question and ask it this way: Relying on only the  
13 public record, which is the statute as passed, Senate  
14 Bill 14, the evidence that you're aware of in the public  
15 record supporting it and the laws as passed in other  
16 states is clearly available to anyone, did you develop  
17 an opinion on whether or not Senate Bill 14 is more or  
18 less restrictive than identification laws in other  
19 states?

20 A. I don't recall. I recall a general discussion in  
21 the Committee and how this law compares to Georgia. And  
22 again, without knowing the timing it's -- I can't recall  
23 if it was Georgia, Indiana, Mississippi, Louisiana,  
24 other states involved or if it was limited to Georgia.

25 Q. Now, moving to the last paragraph in the last

<p style="text-align: center;">369</p> <p>1 section under Conclusion, last sentence of the first</p> <p>2 paragraph, Without inclusion of these three options,</p> <p>3 other forms of IDs fail-safe, non-photo ID options, it</p> <p>4 seems doubtful the DOJ staff will recommend preclearance</p> <p>5 of the Photo ID Law. You drafted that sentence?</p> <p>6 A. I think so, yes.</p> <p>7 Q. I think I'm just about finished.</p> <p>8 In your preparations of Exhibits 86, 85 and 89,</p> <p>9 did you undertake any analysis as to what types of data</p> <p>10 the State collects on voters in terms of race and ID</p> <p>11 availability?</p> <p>12 MR. SWEETEN: In answering that question,</p> <p>13 don't reveal your thoughts, mental impressions regarding</p> <p>14 -- or opinions about legislation or furtherance of the</p> <p>15 legislative process nor communications that we've</p> <p>16 outlined previously. If you can't answer it without</p> <p>17 doing that then do not do so. Otherwise you can refer</p> <p>18 to the matters of the public record.</p> <p>19 A. I'll assert privilege.</p> <p>20 Q. (By Mr. Dunn) Alright. I think subject to the</p> <p>21 court's rulings, I'm finished.</p> <p>22 MR. SWEETEN: Reserve questions to the time</p> <p>23 of trial.</p> <p>24 (Deposition concluded.)</p> <p>25</p>	<p style="text-align: center;">371</p> <p>1 I, BRIAN HEBERT, have read the foregoing</p> <p>2 deposition and hereby affix my signature that same is</p> <p>3 true and correct, except as noted above.</p> <p>4 BRIAN HEBERT</p> <p>5 THE STATE OF TEXAS )</p> <p>6 )</p> <p>7 COUNTY OF _____)</p> <p>8 Before me, _____, on this day</p> <p>9 personally appeared BRIAN HEBERT, known to me (or proved</p> <p>10 to me under oath or through</p> <p>11 (description of identity card or other document) to be</p> <p>12 the person whose name is subscribed to the foregoing</p> <p>13 instrument and acknowledged to me that they executed the</p> <p>14 same for the purposes and consideration therein</p> <p>15 expressed.</p> <p>16 Given under my hand and seal of office this ____</p> <p>17 day of _____, _____.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">NOTARY PUBLIC IN AND FOR THE STATE OF</p>
<p style="text-align: center;">370</p> <p>1 CHANGES AND SIGNATURE</p> <p>2 RE: STATE OF TEXAS VS. HOLDER</p> <p>3</p> <p>4 PAGE LINE CHANGE REASON</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">372</p> <p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE DISTRICT OF COLUMBIA</p> <p>3 STATE OF TEXAS )</p> <p>4 )</p> <p>5 VS. ) NO. 12-CV-128</p> <p>6 ) (DST, RMC, RLW)</p> <p>7 )</p> <p>8 ERIC H. HOLDER, JR., )</p> <p>9 ET AL )</p> <p>10 *****</p> <p>11 CERTIFICATE FROM THE</p> <p>12 ORAL DEPOSITION OF</p> <p>13 BRIAN HEBERT</p> <p>14 *****</p> <p>15 I, Janalyn Reeves, a Certified Shorthand Reporter</p> <p>16 in and for the State of Texas, do hereby certify that</p> <p>17 the foregoing deposition is a full, true and correct</p> <p>18 transcript;</p> <p>19 That the foregoing deposition of BRIAN HEBERT, the</p> <p>20 Witness, hereinbefore named was at the time named, taken</p> <p>21 by me in stenograph on May 29, 2012, the said Witness</p> <p>22 having been by me first duly cautioned and sworn to tell</p> <p>23 the truth, the whole truth, and nothing but the truth,</p> <p>24 and the same were thereafter reduced to typewriting by</p> <p>25 me or under my direction. The charge for the completed</p> <p>deposition is \$_____ due from Defendant.</p> <p>( ) That pursuant to the Federal Rules of Civil</p> <p>Procedure, the Witness shall have 30 days after being</p> <p>notified by certified mail, return receipt requested, by</p> <p>the deposition officer that the original deposition</p> <p>transcript is available in her office for review and</p>

<p style="text-align: center;">1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA</p> <p>STATE OF TEXAS, ) Plaintiff, ) VS. ) ERIC H. HOLDER, JR. in his ) official capacity as Attorney ) General of the United States, ) Defendant, ) ERIC KENNIE, et al, ) Defendant-Intervenors, ) TEXAS STATE CONFERENCE OF ) CASE NO. 1:12-CV-00128 NAACP BRANCHES, ) (RMC-DST-RLW) Defendant-Intervenors, ) Three-Judge Court TEXAS LEAGUE OF YOUNG VOTERS ) EDUCATION FUND, et al, ) Defendant-Intervenors, ) TEXAS LEGISLATIVE BLACK ) CAUCUS, et al, ) Defendant-Intervenors, ) VICTORIA RODRIGUEZ, et al., ) Defendant-Intervenors. )</p> <p style="text-align: center;">***** ORAL DEPOSITION OF BRIAN KEITH INGRAM JUNE 5, 2012 *****</p>	<p style="text-align: center;">3</p> <p>1 2 3 APPEARANCES 4 FOR THE PLAINTIFF, STATE OF TEXAS: 5 Patrick K. Sweeten John McKenzie 6 Jay Dyer OFFICE OF THE ATTORNEY GENERAL OF TEXAS 7 P.O. Box 12548 Austin, TX 78711-2548 8 209 West 14th Street 9 8th Floor Austin, TX 78701 10 (512) 936-1307 patrick.sweeten@texasattorneygeneral.gov 11 FOR THE DEFENDANT, HOLDER, ET AL: 12 Bruce Gear 13 Jennifer Maranzano 14 U.S. DEPARTMENT OF JUSTICE 950 Pennsylvania Avenue, NW 15 NWB - Room 7202 Washington, DC 20530 16 (202) 305-7766 bruce.gear@usdoj.gov 17 jennifer.maranzano@usdoj.gov 18 FOR THE DEFENDANT-INTERVENOR TEXAS STATE CONFERENCE OF NAACP BRANCHES AND THE MEXICAN AMERICAN LEGISLATIVE 19 CAUCUS: 20 Ian Vandewalker (by telephone) Myrna Perez (by telephone) 21 THE BRENNAN CENTER FOR JUSTICE AT NYU LAW SCHOOL 22 161 Avenue of the Americas, Floor 12 New York, NY 10013-1205 23 (646) 292-8362 ian.vandewalker@nyu.edu 24 myrna.perez@nyu.edu 25</p>
<p style="text-align: center;">2</p> <p>1 ORAL DEPOSITION OF BRIAN KEITH INGRAM, produced as 2 a witness at the instance of the Defendant, was duly 3 sworn, was taken in the above-styled and numbered cause 4 on the JUNE 5, 2012, from 9:36 a.m. to 5:25 p.m., before 5 Chris Carpenter, CSR, in and for the State of Texas, 6 reported by machine shorthand, at the offices of The 7 United States Attorney's Office, 816 Congress Avenue, 8 Suite 1000, Austin, Texas 78701, pursuant to the Federal 9 Rules of Civil Procedure and the provisions stated on 10 the record or attached hereto. 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: center;">4</p> <p>1 INDEX 2 Appearances.....3 3 BRIAN KEITH INGRAM 4 Examination by Mr. Gear.....5 Examination by Mr. Vandewalker.....231 5 Further Examination by Mr. Gear.....263 Further Examination by Mr. Vandewalker..266 6 Examination by Mr. Sweeten.....274 7 Signature and Changes.....276 8 Reporter's Certificate.....278 9 EXHIBITS 10 NO. DESCRIPTION PAGE MARKED 11 5 SB No. 14 126 12 28 HB No. 218 111 13 44 HB No. 1706 163 14 101 Texas Legislature Online History, HB 1706 107 15 552 Notice of Deposition 36 16 553 E-Mail, June 5, 2012 28 17 554 E-Mails and Attachments, TX_00148056 thru 94 TX_00148170 18 555 Group of Documents Pertaining to Angelina 96 County Investigation 19 556 SB No. 362 162 20 557 Election Irregularities Reported During 215 the May 9, 2009 General Election 21 22 558 Affidavit of Keith Ingram 240 23 24 559 Plaintiff's Supplemental Objections and 263 Responses to Defendant's First Set of Interrogatories 25</p>

<p style="text-align: center;">5</p> <p>1 THE REPORTER: This is the deposition of</p> <p>2 Keith Ingram, taken in the case of the State of Texas,</p> <p>3 versus Eric Holder, et al., in the United States</p> <p>4 District Court for the District of Columbia, Case Number</p> <p>5 1:12-CV-00128. Today's date is June 5, 2012, and we're</p> <p>6 on the record at 9:36 a.m.</p> <p>7 Will the counsel please make your</p> <p>8 announcements and then I will swear in the witness.</p> <p>9 MR. GEAR: My name is Bruce Gear. I'm</p> <p>10 with the Department of Justice, and I represent Eric</p> <p>11 Holder, the Attorney General for the United States.</p> <p>12 MS. MARANZANO: Jennifer Maranzano, also</p> <p>13 representing Defendant Attorney General Eric Holder.</p> <p>14 MR. SWEETEN: I'm Patrick Sweeten. I'm</p> <p>15 with the Texas Attorney General's Office, and I</p> <p>16 represent the State of Texas and the witness, Keith</p> <p>17 Ingram.</p> <p>18 MR. MCKENZIE: John McKenzie, also with</p> <p>19 the Texas Attorney General's Office, and I represent the</p> <p>20 State of Texas and the witness.</p> <p>21 MR. DYER: And also Jay Dyer. I'm with</p> <p>22 the Texas Attorney General's Office. I'm here on behalf</p> <p>23 of the State of Texas and the witness.</p> <p>24 EXAMINATION</p> <p>25 BY MR. GEAR:</p>	<p style="text-align: center;">7</p> <p>1 This is Ian Vandewalker for Defendant Intervenors, Texas</p> <p>2 NAACP and Mexican American Legislative Caucus. I also</p> <p>3 have here in the room with me Myrna Perez for the same</p> <p>4 party.</p> <p>5 MR. GEAR: Thank you.</p> <p>6 BRIAN KEITH INGRAM,</p> <p>7 having been first duly sworn to testify the truth, the</p> <p>8 whole truth, and nothing but the truth, testified as</p> <p>9 follows:</p> <p>10 EXAMINATION</p> <p>11 BY MR. GEAR:</p> <p>12 Q. All right. And so let's reverse that just a</p> <p>13 little bit. And I asked you the question did you</p> <p>14 understand that you've been sworn in under oath, under</p> <p>15 penalty of perjury and that this is similar to giving</p> <p>16 testimony at a trial. Do you understand that?</p> <p>17 A. I do indeed, yes.</p> <p>18 Q. Okay. And now you have, in fact, been sworn</p> <p>19 in.</p> <p>20 A. Now I have in fact, yes.</p> <p>21 Q. So going back to the ground rules, I'm going to</p> <p>22 be asking you questions. I'd just ask that you give me</p> <p>23 an opportunity to complete the question that I ask, and</p> <p>24 I will do the same for you, give you an opportunity to</p> <p>25 complete your answer as completely and fully as</p>
<p style="text-align: center;">6</p> <p>1 Q. Mr. Ingram, can you state and spell your name</p> <p>2 for the record?</p> <p>3 A. My name is Brian Keith Ingram. B-R-I-A-N,</p> <p>4 K-E-I-T-H, I-N-G-R-A-M.</p> <p>5 Q. And you understand that you've been sworn in</p> <p>6 under oath and may be subject to penalty of perjury for</p> <p>7 giving false or misleading testimony?</p> <p>8 A. Yes.</p> <p>9 Q. And that providing testimony is similar to</p> <p>10 providing testimony in a trial?</p> <p>11 A. Absolutely.</p> <p>12 Q. Do you understand that?</p> <p>13 A. (Witness nods head yes.)</p> <p>14 Q. Okay. I just want to start off with a couple</p> <p>15 of ground rules. I'm going to be asking you questions,</p> <p>16 and you're going to be responding. So during the course</p> <p>17 of the deposition, I just ask that you give me --</p> <p>18 THE REPORTER: I need to swear in the</p> <p>19 witness.</p> <p>20 (Witness sworn.)</p> <p>21 THE REPORTER: Anybody on the phone want</p> <p>22 to make announcements?</p> <p>23 MR. GEAR: Do you want to introduce</p> <p>24 yourself on the phone?</p> <p>25 MR. VANDEWALKER: Yes, sir. Thank you.</p>	<p style="text-align: center;">8</p> <p>1 possible. Do you understand that?</p> <p>2 A. I do.</p> <p>3 Q. It's also important that when you respond, you</p> <p>4 respond verbally. You can't shake your head "yes" or</p> <p>5 "no" because that cannot be recorded. Okay?</p> <p>6 A. I understand.</p> <p>7 Q. It's important that you let me finish the</p> <p>8 sentence that I'm speaking and then I will allow you to</p> <p>9 do the same, and that just goes along with listening and</p> <p>10 answering. Do you understand that?</p> <p>11 A. I do.</p> <p>12 MR. VANDEWALKER: I apologize. I'm sorry</p> <p>13 to interrupt, but I wonder if maybe the phone could be</p> <p>14 placed closer to the people that are speaking. We're</p> <p>15 having a little trouble hearing on the phone.</p> <p>16 MR. GEAR: Okay. Let's see if we can do</p> <p>17 that.</p> <p>18 Q. (By Mr. Gear) As the gentleman on the phone</p> <p>19 pointed out, I tend to be very soft-spoken, and so it's</p> <p>20 important for us to both speak loudly and clearly enough</p> <p>21 so that it can be recorded by the court reporter. Do</p> <p>22 you understand?</p> <p>23 A. I do.</p> <p>24 Q. Okay. Is there any reason that you cannot</p> <p>25 testify today completely and truthfully?</p>

<p style="text-align: center;">17</p> <p>1 January 12th letter before there was a lawsuit filed.</p> <p>2 Q. And that was during the submission process?</p> <p>3 A. It was.</p> <p>4 Q. And when you say "you" --</p> <p>5 A. I mean Jennifer.</p> <p>6 Q. Maranzano?</p> <p>7 A. Right. I wasn't going to try the last name.</p> <p>8 Q. All right. And in the first time you met with</p> <p>9 your attorneys, I believe you said in April or March of</p> <p>10 2012, who else was present, if anyone?</p> <p>11 A. In the room that day would have been Patrick, I</p> <p>12 believe Brooke was there, Paup, and --</p> <p>13 Q. I'm sorry. What was the last name?</p> <p>14 A. Paup. P-A-U-P. Matt Frederick, Reynolds</p> <p>15 Brissenden, and I think that's it.</p> <p>16 MR. GEAR: I don't want to ask him about</p> <p>17 any substance of the conversation.</p> <p>18 MR. SWEETEN: Okay. Great.</p> <p>19 Q. (By Mr. Gear) Who is Brooke Paup?</p> <p>20 A. Lawyer in the Attorney General's Office.</p> <p>21 Q. And Reynolds Brissenden?</p> <p>22 A. Same, lawyer in the Attorney General's Office.</p> <p>23 Q. And did you review any documents at that time?</p> <p>24 A. I did not.</p> <p>25 Q. Moving forward to the next meeting with your</p>	<p style="text-align: center;">19</p> <p>1 Q. Other than your lawyers, did you speak to</p> <p>2 anyone else regarding this deposition today?</p> <p>3 A. Just generally telling people where I was going</p> <p>4 to be and that I would be mostly unavailable.</p> <p>5 Q. Do you -- are you aware that others have been</p> <p>6 deposited regarding this case?</p> <p>7 A. Yes.</p> <p>8 Q. Are you aware that Ann McGeehan has been</p> <p>9 deposited regarding this case?</p> <p>10 A. I am aware of that, yes.</p> <p>11 Q. Did you review Ann McGeehan's deposition</p> <p>12 testimony?</p> <p>13 A. I did not.</p> <p>14 Q. Did you speak to Ann McGeehan regarding her</p> <p>15 deposition testimony?</p> <p>16 A. I did not.</p> <p>17 Q. Did you speak to anyone -- did you speak to</p> <p>18 anyone regarding Ann McGeehan's testimony?</p> <p>19 A. You know, in general terms --</p> <p>20 MR. SWEETEN: Hold on a minute. Don't</p> <p>21 reveal any attorney-client privilege information, any</p> <p>22 discussions that you or me or any other attorneys with</p> <p>23 you may have had. Other than that, you can answer.</p> <p>24 Q. (By Mr. Gear) Anyone other than your lawyers?</p> <p>25 A. No.</p>
<p style="text-align: center;">18</p> <p>1 attorneys in preparation of this deposition, when did</p> <p>2 that occur?</p> <p>3 A. Yesterday.</p> <p>4 Q. Where did that occur?</p> <p>5 A. 7th floor of the Price Daniel, Sr. Building.</p> <p>6 Q. You said "Price Daniel"?</p> <p>7 A. (Witness nods head yes.)</p> <p>8 Q. Who, if anyone, was present then?</p> <p>9 A. Yesterday we had John McKenzie, Patrick Sweeten</p> <p>10 and Jay Dyer were present, and Adam somebody was on the</p> <p>11 phone.</p> <p>12 Q. You don't know Adam's last name?</p> <p>13 A. I do not.</p> <p>14 Q. Do you know who Adam is?</p> <p>15 A. A lawyer in Chicago, New York. Not Texas.</p> <p>16 Q. And you indicated John?</p> <p>17 A. McKenzie.</p> <p>18 Q. McKenzie.</p> <p>19 Were there any nonlawyers present?</p> <p>20 A. There were not.</p> <p>21 Q. Any of your staff?</p> <p>22 A. No.</p> <p>23 Q. Did you review any documents during that</p> <p>24 deposition preparation?</p> <p>25 A. I did not.</p>	<p style="text-align: center;">20</p> <p>1 Q. Did you speak to any of the other deponents in</p> <p>2 this case?</p> <p>3 A. I talked to Michael Scofield before his</p> <p>4 deposition, and he said it was coming Friday when I saw</p> <p>5 him last week. And I talked to Julie Rathgeber in the</p> <p>6 Lieutenant Governor's office. She called me on another</p> <p>7 matter and said she had been deposited. Didn't talk about</p> <p>8 the substance of it at all. Those are the only two that</p> <p>9 I know of. If more than that have been deposited that</p> <p>10 I've talked to, I don't know.</p> <p>11 Q. And you said you spoke to Mr. Scofield. When</p> <p>12 did you meet with Mr. Scofield?</p> <p>13 A. I had lunch with him a week and a half ago.</p> <p>14 Q. And that was before he provided his deposition</p> <p>15 testimony?</p> <p>16 A. It was.</p> <p>17 Q. Did you talk about the depositions?</p> <p>18 A. Did not.</p> <p>19 Q. Did you meet with anyone else regarding</p> <p>20 preparation for this deposition?</p> <p>21 A. No. I did talk to the manager of my voter</p> <p>22 registration department just to make sure in my head I</p> <p>23 had the right general figures.</p> <p>24 Q. So the manager of your voter registration</p> <p>25 department --</p>



<p style="text-align: center;">21</p> <p>1 A. That's right.</p> <p>2 Q. -- who is that?</p> <p>3 A. Betsy Schonhoff. S-C-H-O-N-H-O-F-F.</p> <p>4 Q. And is Betsy Schonhoff an attorney within the</p> <p>5 Secretary of State's Office?</p> <p>6 A. She is not.</p> <p>7 Q. Can you tell me when you met with or spoke with</p> <p>8 Betsy Schonhoff?</p> <p>9 A. I talked to her about 15 minutes yesterday</p> <p>10 afternoon.</p> <p>11 Q. And you indicated that you wanted to make sure</p> <p>12 you had your figures correct. What figures are you</p> <p>13 referencing?</p> <p>14 A. Well, specifically, I was talking to her about</p> <p>15 the fact that, you know, in the official list of</p> <p>16 registered voters for this May 29th primary that we just</p> <p>17 had, that I had a recollection of having 13,065,000</p> <p>18 registered voters of which a little better than 1 1/2</p> <p>19 million were on suspense, and so I just wanted to make</p> <p>20 sure that my recollection of those numbers was correct.</p> <p>21 Q. So when you say "on suspense," you're talking</p> <p>22 about suspended voters?</p> <p>23 A. Right.</p> <p>24 Q. Okay. And so what was the figure that you just</p> <p>25 stated?</p>	<p style="text-align: center;">23</p> <p>1 Q. Are -- do suspended voters, are their licenses</p> <p>2 seized?</p> <p>3 A. No.</p> <p>4 Q. And I'm not -- this is --</p> <p>5 A. No, no.</p> <p>6 Q. -- your chance for me to understand.</p> <p>7 A. No. It doesn't have anything to do with</p> <p>8 that. That's -- I'm just surprised.</p> <p>9 Q. Okay. And so what does suspended voting have</p> <p>10 to do with?</p> <p>11 A. A voter goes in suspense whenever there's an</p> <p>12 indication to the voter registrar of their county that</p> <p>13 that voter no longer lives at the address they provided</p> <p>14 when they registered to vote. So the way it works is in</p> <p>15 the fall of odd-numbered years, there is a date, a</p> <p>16 cut-off date at the end of November. All voters who are</p> <p>17 registered by that date get a card that's a voter</p> <p>18 registration card.</p> <p>19 Q. Uh-huh.</p> <p>20 A. And that piece of mail, that card, is</p> <p>21 nonforwardable. So if it bounces back to the voter</p> <p>22 registrar, the voter registrar then sends a piece of</p> <p>23 forwardable mail to that address that says, "Have you</p> <p>24 changed your address?" The voter will have 30 days to</p> <p>25 update their address information with the voter</p>
<p style="text-align: center;">22</p> <p>1 A. That as of April the 30th, whenever they ran</p> <p>2 the list of -- official list of registered voters for</p> <p>3 the primary, we had just over 13 million registered in</p> <p>4 the state, of which about 1 1/2 million, 1.543 or</p> <p>5 something like that, were on suspense. And that 1 1/2</p> <p>6 million figure for suspense is fairly consistent over</p> <p>7 time. 2008 cycle, there was 1.898. In the 2010 cycle,</p> <p>8 there was a little more, 1,898,300. But anyway, that's</p> <p>9 --</p> <p>10 Q. So 1.5 million is the average?</p> <p>11 A. It's consistent. A little down.</p> <p>12 Q. And why were you concerned about those numbers?</p> <p>13 A. Just wanted to make sure that if it came up, I</p> <p>14 had good information in my head.</p> <p>15 Q. Okay. And you're familiar with SB 14?</p> <p>16 A. I'm generally familiar with SB 14.</p> <p>17 Q. And is it fair to that suspended voters would</p> <p>18 not be allowed to vote pursuant to SB 14?</p> <p>19 A. That is not correct.</p> <p>20 Q. Okay. What is correct?</p> <p>21 A. If a voter shows up to vote and they show the</p> <p>22 proper ID, they can vote.</p> <p>23 Q. Okay.</p> <p>24 A. That's the one way to get out of suspense is to</p> <p>25 vote.</p>	<p style="text-align: center;">24</p> <p>1 registrar or let them know that they have moved out of</p> <p>2 county. If they don't do either one, they will stay in</p> <p>3 suspense for the next two general elections. So roughly</p> <p>4 36 months. And after the second general election, at</p> <p>5 which they don't show up and vote, they're cancelled.</p> <p>6 Q. And is there a process that a suspended voter</p> <p>7 would have to go through in order to vote on an election</p> <p>8 date?</p> <p>9 A. Show up and vote.</p> <p>10 Q. Okay.</p> <p>11 A. They can either bring an expired voter</p> <p>12 registration card, or they can bring any of the other</p> <p>13 forms of ID that are in 63.0101, pre-Senate Bill 14.</p> <p>14 Q. And that's under the current law?</p> <p>15 A. Right.</p> <p>16 Q. And would that change under SB 14?</p> <p>17 A. The categories of documents that are allowable</p> <p>18 has ID change.</p> <p>19 Q. Okay.</p> <p>20 A. 63.0101 lists changes, yes.</p> <p>21 MR. SWEETEN: I need to take a quick</p> <p>22 break. I've got a breaking very small family emergency</p> <p>23 that I can address with a phone call.</p> <p>24 MR. GEAR: Sure. Go off the record.</p> <p>25 (Recess from 10:03 to 10:05 a.m.)</p>

25

1 MR. GEAR: Okay. So we were talking about  
2 suspended voters, and can you read the last question  
3 back?

4 (Requested portion was read back by the  
5 court reporter.)

6 Q. (By Mr. Gear) And I believe that was your  
7 answer. And what did you mean by that?

8 A. I mean that the list of allowable forms of  
9 identification changed in SB 14.

10 Q. All right. So when dealing with a suspended  
11 voter that comes to the polling place, what must they  
12 show in order to vote?

13 A. When?

14 Q. When they come to the polling place.

15 A. I understand --

16 Q. When SB 14 -- if SB 14 is implemented?

17 A. If SB 14 is implemented, they would have to  
18 show one of the forms of ID in Election Code 63.0101.

19 Q. And all of those are photo ID?

20 A. Yes.

21 Q. And they can no longer show their election  
22 certificate?

23 A. No, they could.

24 Q. They could?

25 A. Sure.

26

1 Q. Could they only show the certificate?

2 A. No.

3 Q. And again, this is my opportunity to understand  
4 what you know, and so some questions that I ask you may  
5 seem obvious, but I just want to know what you know. Do  
6 you understand?

7 A. I do.

8 Q. Okay. And you indicated that you gained the  
9 knowledge about suspended voters from Betsy, and I can't  
10 remember the last name.

11 A. Schonhoff.

12 Q. Schonhoff. Did you discuss anything else with  
13 Betty Schonhoff?

14 A. I did not.

15 Q. All right. And I see that you brought some  
16 documents today?

17 A. I did. I received an e-mail this morning that  
18 I believe to be responsive to the duces tecum.

19 Q. Okay. And is that something I can take a look  
20 at?

21 A. (Handed document to counsel.)

22 MR. GEAR: Have you seen this already?

23 MR. SWEETEN: I have.

24 MR. GEAR: Okay.

25 Q. (By Mr. Gear) And this is from the Secretary of

27

1 State?

2 A. Forwarded it to me, yes.

3 Q. And it's dated June 5th, 2012, correct?

4 A. Yes.

5 Q. Okay. And as I've skimmed this, I understand  
6 that it addresses La Salle County?

7 A. Yes, that's my understanding.

8 Q. And why did you believe this was responsive to  
9 the subpoena?

10 A. I believe that the subpoena has on it anything  
11 that relates to complaints of voter fraud, and this is  
12 what appears, on its face, to be a complaint about voter  
13 fraud in a La Salle County recently. It's not on our  
14 official complaint form yet.

15 Q. Okay. And it indicates that the complaint that  
16 you're referring to may cover 20 -- 20 percent, 25  
17 percent of the registered voters?

18 A. Whatever Mr. Barrientos says.

19 Q. And who is Barrientos?

20 A. I do not know who he is.

21 Q. And you're referring to -- and let's do this so  
22 it's a little clearer on the record.

23 A. Sure.

24 Q. Do you need this document? Do you mind if I  
25 mark it as an exhibit?

28

1 A. No, you're welcome to it.

2 Q. Okay.

3 MR. GEAR: Why don't we mark this as  
4 Exhibit 553.

5 (Exhibit 553 marked for identification.)

6 MR. SWEETEN: And Bruce, just at a break  
7 or at lunch or whatever, we probably want to make copies  
8 of that.

9 MR. GEAR: Copies. That's fine. And of  
10 course I don't have copies right now.

11 MR. SWEETEN: Of course, and I don't  
12 either, and so, yeah, we'll work it out.

13 MR. GEAR: Okay.

14 Q. (By Mr. Gear) So now that this is a little  
15 clearer on the record, I'm showing you what's been  
16 marked as Exhibit 553, which is a document that you  
17 brought with you today; is that correct?

18 A. It is.

19 Q. Okay. And this is from the Secretary of State  
20 to -- to you, correct?

21 A. That is right.

22 Q. And the date is June 5th, 2012?

23 A. It is.

24 Q. All right. And this document references La  
25 Salle County, and it's from an individual named Rene --

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1 can you pronounce the last name for me?  
 2 A. Barrientos.  
 3 Q. Barrientos. And I asked you previously, do you  
 4 know who Rene Barrientos is?  
 5 A. I do not.  
 6 Q. You do not. Did you receive this complaint  
 7 from Mr. Barrientos directly, or did it come to you in  
 8 some other form?  
 9 A. It came to me indirectly. It was made to the  
 10 Secretary. She forwarded it to me.  
 11 Q. Okay. And do you know -- the date reflected  
 12 here is June 4th, 2012. Is what when it was made to the  
 13 Secretary?  
 14 A. I --  
 15 Q. Do not know?  
 16 A. -- assume it's correct.  
 17 Q. Okay. And again, it's dated June 4th, 2012,  
 18 from Mr. Barrientos. And it starts off, "Dear Secretary  
 19 of State." And again, it references La Salle County.  
 20 Do you see that?  
 21 A. Yes.  
 22 Q. And it also indicates that La Salle County has  
 23 approximately 7,000 residents and approximately 3,900  
 24 registered voters. Do you see that?  
 25 A. Uh-huh.

30

1 Q. All right. "This county has a fairly young  
 2 population that would otherwise be ineligible to vote,  
 3 as they are not of voting age." Do you see that?  
 4 A. Yes.  
 5 Q. "Some county officials have estimated that 900  
 6 to 1,000 of those registered voters --" "those  
 7 registered to vote in La Salle do not reside in the  
 8 county and would not be eligible to vote." Do you see  
 9 that?  
 10 A. I see that's what he says.  
 11 Q. Okay. "Confirmation of their residence is  
 12 unavailable due to the inability to verify their  
 13 residence as required in obtaining a driver's license."  
 14 Is that correct?  
 15 A. Again, that's what he says.  
 16 Q. Okay. And when you say that's what he says,  
 17 that -- that's what's indicated in the complaint by  
 18 Mr. Barrientos?  
 19 A. That is right.  
 20 Q. All right. And you have not done any  
 21 independent research of this particular complaint?  
 22 A. I have not.  
 23 Q. Okay. Mr. Barrientos indicates that, "These  
 24 nonresidents actually have a higher voting percentage  
 25 than the actual voter resident population." Do you see

31

1 that?  
 2 A. I see it.  
 3 Q. Okay. And that's what Mr. Barrientos says in  
 4 his complaint?  
 5 A. Right.  
 6 Q. And his complaint indicates -- or addresses the  
 7 issue of non-U.S. citizens registering and voting. Do  
 8 you see that? And that would be at the bottom of the  
 9 first page of this document.  
 10 A. Right. That's listed as the first of several  
 11 examples, apparently.  
 12 Q. Okay. And again, you have not had an  
 13 opportunity to independently verify any of the  
 14 allegations in, in this complaint?  
 15 A. I have not.  
 16 Q. And would this be a formal complaint or an  
 17 informal complaint for the purposes of the Secretary of  
 18 State's Office?  
 19 A. This is an informal complaint.  
 20 Q. Is there a particular process that  
 21 Mr. Barrientos would have to go through to file a formal  
 22 complaint with the Secretary of State's Office?  
 23 A. We generally ask people who make informal  
 24 complaints to fill out our formal complaint form and  
 25 provide any evidence that they've got along with that

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1 form.  
 2 Q. And I see this is dated -- the e-mail to you is  
 3 dated June 5th, 2012. Is it fair to say you have not  
 4 had a chance to communicate with Mr. Barrientos?  
 5 A. That is fair.  
 6 Q. Okay. So what type of voter fraud is being  
 7 referenced in Exhibit 553?  
 8 A. Well, like you said, noncitizens, multiple  
 9 registration of individuals and being registered in  
 10 different counties, convicted felons on probation not  
 11 eligible to vote that are registered and did vote.  
 12 Something about a local justice of the peace whose  
 13 husband was a candidate for sheriff, knowingly  
 14 registered nonresident oil field workers to support her  
 15 husband, and that they did, in fact, vote as she  
 16 requested. Allegations that ballots were shredded  
 17 during the vote count, and countless examples remaining.  
 18 Q. Do any of those allegations include voter  
 19 impersonation?  
 20 A. I don't think so, but it's hard to say.  
 21 Q. And based on your review, you don't see --  
 22 A. Well, it's hard to say because I'm not sure  
 23 exactly what he's getting at with these without more  
 24 information. Some of these, especially the multiple  
 25 registration and the non-U.S. citizens, could be voter

<p style="text-align: center;">33</p> <p>1 impersonation, but I just don't have enough information</p> <p>2 on this.</p> <p>3 Q. But in your review of Exhibit 553, there's no</p> <p>4 direct mention of voter impersonation?</p> <p>5 A. Not voter impersonation, no.</p> <p>6 Q. There's no direct mention of individuals voting</p> <p>7 at a polling place who represent -- who are not who they</p> <p>8 say they are?</p> <p>9 A. That's true. Not directly, except for he talks</p> <p>10 about ineligible voters falsely misrepresenting</p> <p>11 residents or citizenship and requiring voter eligibility</p> <p>12 and ID as a way to stop that.</p> <p>13 Q. And you can be a nonresident and vote</p> <p>14 illegally, but you can still be who you say you are; is</p> <p>15 that correct?</p> <p>16 A. You can.</p> <p>17 Q. And you can be a noncitizen and vote illegally,</p> <p>18 but still be who you say you are, correct?</p> <p>19 A. You can.</p> <p>20 Q. And those individuals could also be registered</p> <p>21 or improperly registered, based on clerical error. Is</p> <p>22 that fair to say, generally?</p> <p>23 A. Yeah, it's the qualifier that I don't like.</p> <p>24 What do you mean, clerical error?</p> <p>25 Q. Clerical error, an error made by the local</p>	<p style="text-align: center;">35</p> <p>1 Mr. Barrientos a letter saying, "Sorry, you didn't give</p> <p>2 us enough info."</p> <p>3 Q. All right.</p> <p>4 A. That would be for my lawyers decide.</p> <p>5 Q. And so your response suggests that, that you</p> <p>6 have an option whether to refer or not to refer?</p> <p>7 A. Right.</p> <p>8 Q. And who makes that decision?</p> <p>9 A. Well, ultimately, I do.</p> <p>10 Q. Have you received complaints in your office</p> <p>11 that were received informally that you have determined</p> <p>12 not to refer?</p> <p>13 A. Yes.</p> <p>14 Q. And is there a format or a basis in which you</p> <p>15 make that determination? Is there a process by which</p> <p>16 you would make such a determination?</p> <p>17 A. Well, you know, basically, you refer them if</p> <p>18 you think there's enough there to refer.</p> <p>19 Q. And what, if any, independent research or</p> <p>20 investigation do you do when you receive informal</p> <p>21 complaints?</p> <p>22 A. We don't do any investigation in our office.</p> <p>23 Q. Okay.</p> <p>24 A. We look at the face of the complaint and refer</p> <p>25 it if it, on its face, alleges sufficient facts.</p>
<p style="text-align: center;">34</p> <p>1 election official. I mean, I'm not trying to testify</p> <p>2 for you, so...</p> <p>3 A. Well, I just don't understand the question. I</p> <p>4 mean, people can be falsely registered, yes.</p> <p>5 Q. Okay. And again, that false registration can</p> <p>6 be based on no fault of their own, generally?</p> <p>7 A. It takes an act of volition to apply to</p> <p>8 register to vote.</p> <p>9 Q. Okay. And so my question is, is: Are you</p> <p>10 aware of errors made in registration by any local</p> <p>11 officials?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So what's -- what's the next step in the</p> <p>14 process for Exhibit 553? What would you do?</p> <p>15 A. Well, what I did do, I refer it to my legal</p> <p>16 department for further action.</p> <p>17 Q. All right. And so, we may come back to this,</p> <p>18 but and the further action would be to request a formal</p> <p>19 complaint by Mr. Barrientos, and that would be a formal</p> <p>20 written complaint?</p> <p>21 A. Right.</p> <p>22 Q. And what happens if he does not return a formal</p> <p>23 written complaint?</p> <p>24 A. Well, I don't know. I mean, we could either</p> <p>25 refer it to the OAG like this, or we could send</p>	<p style="text-align: center;">36</p> <p>1 Q. So you look at the facts of -- of any</p> <p>2 particular complaint?</p> <p>3 A. Yes.</p> <p>4 Q. Okay.</p> <p>5 (Exhibit 552 marked for identification.)</p> <p>6 Q. (By Mr. Gear) Okay. These go out of order, but</p> <p>7 I'm going to show you what's been marked as Exhibit 552</p> <p>8 and give you a chance to take a look at that.</p> <p>9 A. (Viewing documents.) Yes.</p> <p>10 Q. You previously referred to your subpoena. Were</p> <p>11 you referring to your notice of deposition?</p> <p>12 A. I am.</p> <p>13 Q. Okay. And specifically to Attachment A?</p> <p>14 A. Yes.</p> <p>15 Q. And the request for documents, which I believe</p> <p>16 is on Page 5 of your notice?</p> <p>17 A. Right.</p> <p>18 Q. All right. And did -- what, if anything, did</p> <p>19 you or anyone in your office do to respond to the</p> <p>20 attachment, request for documents?</p> <p>21 A. Well, I reviewed the request to determine</p> <p>22 whether or not these documents have been previously</p> <p>23 provided or not, and they have been.</p> <p>24 Q. And how did you determine that they have been</p> <p>25 provided?</p>

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1 A. Because everything that we have with regard to  
2 SB 14 was assembled and turned over.  
3 Q. And so let's break that down a little bit.  
4 When you say everything that we have, how  
5 were those documents maintained within your office? And  
6 we're talking about the Election Division?  
7 A. That's right. We had a substantial public  
8 information request from a AP reporter, Suzanne Gamboa.  
9 Q. Okay.  
10 A. Earlier this year, late last year, and so we  
11 gathered up everything responsive to that public  
12 information request, and it was gathered at the time  
13 that we received the litigation hold on this case.  
14 Q. So other than turning over to the Department of  
15 Justice the documents responsive to the public  
16 information request, did you go beyond and search for  
17 any additional documents that may be responsive?  
18 A. No. We did submit forms and a couple of  
19 manuals for preclearance Friday, so you all should have  
20 those. And those are recently-created forms. And then  
21 this e-mail that I received this morning was responsive,  
22 I thought, to Number 14. We also had a spreadsheet that  
23 we gave -- I don't know when it was, a couple of months  
24 ago, a month and a half ago -- related to all the voter  
25 fraud complaints that we have received over the last

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1 while.  
2 MR. GEAR: Can we go off record for one  
3 second?  
4 (Brief discussion off the record.)  
5 MR. GEAR: All right. Back on the record.  
6 Q. (By Mr. Gear) Can you tell me when you produced  
7 the spreadsheet for voter fraud complaints?  
8 A. I don't know.  
9 Q. Can you tell me what the date range of that  
10 spreadsheet is?  
11 A. I don't remember.  
12 MR. GEAR: And Patrick, do you know if we  
13 received that?  
14 MR. SWEETEN: I don't. I can talk to him  
15 at a break, and we'll figure that out as well. I have  
16 talked to John, and I don't think he knows either.  
17 MR. GEAR: Because I've reviewed our  
18 records, and I don't believe that I've seen anything  
19 like that. Is there any way that we can get a copy of  
20 it before this deposition is over?  
21 MR. SWEETEN: Well, let me look into what  
22 it is, and if we've asserted a privilege on it, and let  
23 me get to the bottom of it at a break. And I'll talk to  
24 Keith. That's where I'll start.  
25 MR. GEAR: Okay.

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1 Q. (By Mr. Gear) So just so I understand a little  
2 bit more about this spreadsheet, you testified here  
3 today that it deals with voter fraud, and it's a list of  
4 voter fraud complaints that have been generated in the  
5 Secretary of State's Office?  
6 A. No. That is not correct.  
7 Q. Okay. Well, you tell me.  
8 A. It is a list of voter fraud, voter  
9 impersonation complaints that we've received at the  
10 Secretary of State's Office.  
11 Q. And when you say received, can you give me a  
12 little bit more detail? How did you receive these?  
13 A. All kinds of ways: Over the phone, e-mail,  
14 letters.  
15 MR. VANDEWALKER: I'm sorry to interrupt  
16 again. For the people on the phone, it seemed to have  
17 moved away from the mics or something. People's voices  
18 are fading out a little bit. If I could just remind  
19 everyone to speak into the phone.  
20 MR. GEAR: We'll do that. Thank you.  
21 MR. VANDEWALKER: Thank you.  
22 Q. (By Mr. Gear) So as I understand your  
23 testimony, the spreadsheet includes voter fraud  
24 complaints that have been received by the Secretary of  
25 State's Office by phone, correct?

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1 A. Right.  
2 Q. E-mail?  
3 A. Right.  
4 Q. Letters?  
5 A. Yes.  
6 Q. Any other way that complaints would be received  
7 by the Secretary of State's Office?  
8 A. I can't think of any.  
9 Q. I asked you earlier how you maintained files  
10 within the Secretary of State's Office, or within the  
11 Elections Division, and you referenced that files were  
12 produced in -- that had been gathered by public  
13 information requests. And I want to go back to that  
14 question of how you maintained the files in your  
15 office. Do you maintain electronic files?  
16 A. Yes.  
17 Q. Can you describe that a little bit for the  
18 record, how they are maintained?  
19 A. Well, they're maintained on shared network  
20 drives under categories. I'm not sure I understand the  
21 question.  
22 Q. You indicated that they're maintained under  
23 shared network drives under categories. How are the  
24 categories divided on the shared network drive?  
25 A. I have no idea. I mean...

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1 Q. Well, let me narrow that down to voter ID  
2 legislation or voter ID issues. Is there a category  
3 that would identify voter ID specifically?  
4 A. One of the things that we did in response to  
5 the public information request from Suzanne Gamboa is  
6 segregate all of the electronic documents into an SB 14  
7 folder.  
8 Q. Okay. So as I understand your testimony, in  
9 the Election Divisions office, all of the electronic  
10 files that deal with SB 14 have been segregated into a  
11 particular electronic file?  
12 A. That's right.  
13 Q. All right. What about earlier voter ID  
14 legislation; has that also been segregated?  
15 A. When I said SB 14, I mean voter ID generally.  
16 Q. Okay. And that would include legislation from  
17 2005 to 2011?  
18 A. It includes whatever it includes. Photo ID was  
19 the...  
20 Q. And when you -- when you -- and I'm saying  
21 "you" in reference to you or anyone else within your  
22 office at this time. When you produced documents  
23 responsive to the notice of deposition, did you also  
24 produce documents related to any legislation prior to  
25 2011 that dealt with voter ID legislation?

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1 A. Yes.  
2 Q. Okay. I turn your attention to -- I think it's  
3 Exhibit Number 552 --  
4 A. Right.  
5 Q. -- which is your notice of deposition, and turn  
6 your attention to Paragraph 5. "All documents and  
7 communications, including but not limited to those among  
8 and between the Office of the Secretary of State, the  
9 Division of Elections, members of the Texas Legislature,  
10 the Texas Legislative Council, and other Texas state  
11 executive offices and agencies." Do you see that one?  
12 A. I do.  
13 Q. Did you produce documents responsive to  
14 Paragraph 5?  
15 A. I believe so, yes.  
16 Q. And so it's your testimony here today that you  
17 produced documents responsive to all of the paragraphs  
18 included within the notice of deposition documents?  
19 A. Yes.  
20 Q. Okay. I just want to go back briefly to the --  
21 your testimony about the spreadsheet regarding voter  
22 fraud that was -- that was produced. Who -- who do  
23 complaints usually come from in terms of voter fraud?  
24 A. There's not a usual.  
25 Q. Can you give me a description of generally,

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1 then, who would make a voter fraud complaint to the  
2 Secretary of State's Office?  
3 A. Generally, anybody that feels like fraud has  
4 been committed and cares enough about it, reports it.  
5 Q. So that would include voters?  
6 A. It does include voters.  
7 Q. Candidates?  
8 A. Yes.  
9 Q. Would you ever receive a referral for any  
10 reason directly from the Attorney General's Office?  
11 A. No.  
12 Q. Election officials, local election officials?  
13 A. Yes. And maybe -- we might have -- sometimes  
14 people go the OAG first, and the OAG redirects them to  
15 us to do the evidence assembly. So if that's considered  
16 getting a complaint from the OAG, that probably has  
17 happened a few times.  
18 Q. Okay. So let's just talk about for a minute.  
19 If the OAG redirects a complaint to you,  
20 what do they generally ask you to do?  
21 A. They like for us to have complaints sent to  
22 them on our form after we've assembled the evidence.  
23 Q. Okay. When you talk about evidence, what are  
24 you referring to?  
25 A. I'm talking about a list of witnesses, whatever

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1 documentary evidence there is to support the  
2 allegations, they want us to do that bit first and then  
3 refer to it them.  
4 Q. Okay. And is that generally what you do for  
5 all complaints when possible?  
6 A. It is.  
7 Q. And when you talk about evidence, are you  
8 referring an election-related evidence?  
9 A. Evidence supporting the allegations of fraud as  
10 the complainant sees it.  
11 Q. Okay. And that would deal with voter  
12 registration information, documentation that's specific  
13 to any particular election? Would that be accurate,  
14 generally?  
15 A. It includes whatever the complainant believes  
16 to be necessary for their complaint. So yes, it can be  
17 any number of things.  
18 Q. Okay. And we talked about documents in the  
19 Elections Division. Can you tell me: Is there a  
20 retention policy in your office?  
21 A. There is.  
22 Q. And what is that policy?  
23 A. It's written. A lot of pages, a lot of words.  
24 Q. And what is your retention policy?  
25 A. Well, it's different for different documents.



<p style="text-align: center;">49</p> <p>1 A. I don't know.</p> <p>2 Q. Who would know what's maintained within the</p> <p>3 electronic file pertaining to SB 14?</p> <p>4 A. I don't know.</p> <p>5 Q. Is there a particular person that's responsible</p> <p>6 for maintaining that file?</p> <p>7 A. Well, yes. There's a lady in my office who's</p> <p>8 got a -- you know, a list of stuff.</p> <p>9 Q. Okay. And so let's flesh that out a little</p> <p>10 bit. There's a lady in your office. Who is the lady?</p> <p>11 A. Jennifer Templeton.</p> <p>12 Q. And what are -- what are Jennifer Templeton's</p> <p>13 responsibilities?</p> <p>14 A. Well, applicable to this, it's her</p> <p>15 responsibility to gather information and keep public</p> <p>16 information requests in order and on track.</p> <p>17 Q. And you testified to stuff, and I'm just trying</p> <p>18 to put that into context.</p> <p>19 A. Well, I haven't -- I haven't looked at her</p> <p>20 list, so I don't know how detailed the description is</p> <p>21 of, of the items. It's -- she got a list of everything</p> <p>22 that we've turned over to the OAG in connection with</p> <p>23 this litigation. But what I think is that's it's a real</p> <p>24 high-level list.</p> <p>25 Q. And when you say high level, what do you mean?</p>	<p style="text-align: center;">51</p> <p>1 Q. (By Mr. Gear) I don't believe I asked that one,</p> <p>2 but you can answer.</p> <p>3 A. I don't know. I mean, it's a hard question to</p> <p>4 answer, because Ann McGeehan didn't have files. You</p> <p>5 know, that's -- that's not a category that exists.</p> <p>6 There are files that contain Ann McGeehan's work in</p> <p>7 them, and I have looked at some of those, sure.</p> <p>8 Q. Okay.</p> <p>9 A. It is in response to the Suzanne Gamboa PIR, we</p> <p>10 were trying to go through them and assert objections.</p> <p>11 Q. So you said, if I understand your testimony</p> <p>12 correctly, she did not have a file that exists on a</p> <p>13 electronic drive, but she had -- she had work that</p> <p>14 existed on the electronic drive, correct?</p> <p>15 A. That's the best of my ability to describe it,</p> <p>16 yes.</p> <p>17 Q. And are you familiar with the work that she</p> <p>18 produced pertaining to SB 14?</p> <p>19 A. Am I familiar with all of it? I don't know.</p> <p>20 Q. But you've reviewed --</p> <p>21 A. Some.</p> <p>22 Q. -- some of that work?</p> <p>23 A. (Witness nods head yes.)</p> <p>24 Q. In addition to the electronic files, are there</p> <p>25 paper files maintained within your office pertaining to</p>
<p style="text-align: center;">50</p> <p>1 A. I mean, you know, three banker boxes of</p> <p>2 documents.</p> <p>3 Q. Okay.</p> <p>4 A. So, I don't think it's of much help is my</p> <p>5 point.</p> <p>6 Q. Has the list itself been turned over to the</p> <p>7 OAG?</p> <p>8 A. No.</p> <p>9 Q. But that list would identify everything that</p> <p>10 has been turned over and everything that's within the</p> <p>11 electronic file pertaining to SB 14?</p> <p>12 A. In a very general way.</p> <p>13 Q. Did you review Ann McGeehan's files pertaining</p> <p>14 to SB 14?</p> <p>15 A. I don't know.</p> <p>16 Q. Would Ann McGeehan's files, notes, speeches,</p> <p>17 whatever exists be contained within the electronic file</p> <p>18 that you've been testifying here today?</p> <p>19 A. Yeah. It would be in the electronic and paper</p> <p>20 files. We gathered everything.</p> <p>21 Q. And so did you review Ann McGeehan's files</p> <p>22 pertaining to SB 14 when you began in January of 2012?</p> <p>23 MR. SWEETEN: Objection, asked and</p> <p>24 answered.</p> <p>25 A. Yeah.</p>	<p style="text-align: center;">52</p> <p>1 SB 14 or voter ID legislation generally?</p> <p>2 A. Yes.</p> <p>3 Q. And were those searched in response to the</p> <p>4 notice of deposition?</p> <p>5 A. No.</p> <p>6 Q. Do you know -- do you know or do you have</p> <p>7 knowledge as to whether the paper files contained any</p> <p>8 different documentation other than the -- beyond the</p> <p>9 electronic file?</p> <p>10 A. I have no idea.</p> <p>11 Q. I'm going to change the focus for a second to</p> <p>12 your educational background. Can you tell me a little</p> <p>13 bit about your educational background?</p> <p>14 A. I graduated Permian Basin Christian School with</p> <p>15 a high school diploma in 1985. I graduated Texas A&amp;M</p> <p>16 University with a BA in political science in 1989.</p> <p>17 Graduated UT Law with a JD in 1993.</p> <p>18 Q. All right. And I just need to slow down a</p> <p>19 little bit. So we can skip past high school. You</p> <p>20 graduated. Congratulations. Let's go to 1999.</p> <p>21 A. But in high school, I was the top 20 percent of</p> <p>22 my class. You don't want to just pass right over that.</p> <p>23 Q. And that is important.</p> <p>24 A. I wasn't in the top 20 present. I was the top</p> <p>25 20 present. It was a small school.</p>

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1 Q. So in 1999, you said you graduated from  
2 undergrad, correct?  
3 A. 1989.  
4 Q. 1989 you graduated from undergrad. And did I  
5 -- did I hear University of Texas?  
6 A. That's law school.  
7 Q. Law school. So the undergrad was --  
8 A. Texas A&M.  
9 Q. Texas A&M. Okay. And then UT law school was  
10 in?  
11 A. 1993.  
12 Q. '93. And do you have an active law license?  
13 A. I do.  
14 Q. And which states do you have an active law  
15 license in?  
16 A. Texas and Arkansas.  
17 Q. Okay. Well, let's just talk about your work  
18 history, if we -- if we can. Did you come to practice  
19 law at any particular time?  
20 A. I did.  
21 Q. And tell me just a little bit about your law  
22 practice.  
23 A. Sure. September of '93 to February of '96, I  
24 was at a firm in McAllen, Texas named Atlas and Hall,  
25 LLP. And I was a litigation associate, but did a little

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1 bit of a lot of stuff.  
2 Q. Okay. Beyond 1996?  
3 A. In February 1996, I came to Austin to work in a  
4 litigation boutique. At the time, it was Maroney,  
5 Crowley, Bankston, Richardson & Hull, LLP, where I was  
6 also a litigation associate. But instead of doing as  
7 many different things as I was doing in McAllen, now I  
8 had focused primarily on product liability litigation,  
9 breast implants, medical malpractice and general  
10 insurance defense, mainly of Sears and Jefferson  
11 Insurance.  
12 Q. And you did that from '96 to --  
13 A. The guys that I came to work for in '96, we  
14 stayed together until 2006. It was different firms. We  
15 merged with Locke, Purnell, Rain & Harrell. Locke,  
16 Purnell merged with Liddell, Sapp, Zivley, Hill &  
17 LaBoon. And then it merged with Liddell, Sapp, Zivley,  
18 Hill & LaBoon, and then we left again to form our own  
19 litigation boutique.  
20 Q. And you left again in 2006 or you left --  
21 A. No. We left in April of 2000, and then had our  
22 own firm until March of 2006, when I went to Arkansas.  
23 Q. So between 1996 to 2006, you were a lawyer with  
24 Maroney or some capacity of Maroney. Is that fair to  
25 say?

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1 A. That's fair.  
2 Q. Okay. And so in 2006, you indicated you left  
3 and went to Arkansas?  
4 A. I did.  
5 Q. And where did you go when you went to Arkansas?  
6 A. I went to a firm called Kutak Rock in Little  
7 Rock, Arkansas. They're an Omaha-based national firm.  
8 Q. And how long did you stay there?  
9 A. About a year.  
10 Q. 2006 to 2007?  
11 A. Yes.  
12 Q. And after that?  
13 A. I had my own firm for a year, January of '07 to  
14 January of '08; figured self-employed in Austin was  
15 better than Kutak Rock in Little Rock.  
16 Q. Was that -- was that in Arkansas as well, or  
17 was that back here?  
18 A. No, it was here in Austin.  
19 Q. Austin. And after 2008?  
20 A. January of 2008, I went to work for the  
21 Governor of Texas.  
22 Q. And how long did you work for the Governor?  
23 A. Four years.  
24 Q. So that would have been what, 2008 to 2012?  
25 A. '12, yes.

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1 Q. All right. So let's just go back briefly to  
2 1993 to 1996, where you worked for -- I believe you said  
3 Atlas and Hall?  
4 A. Yes.  
5 Q. And during that time period, did you do  
6 anything related to election law?  
7 A. No.  
8 Q. And then the next period would have been 1996  
9 to 2006. You want make a correction?  
10 A. Yeah. I'm not sure is a better answer to that  
11 question. I did do some work for a lawyer named Travis  
12 Hiester, and he had a whole lot of school districts that  
13 he did work for, so it is completely possible that I did  
14 some election law question for him on a memo. But I  
15 don't remember anything specifically about it.  
16 And when I was in law school, my first  
17 summer, I clerked at Bickerstaff, Heath, Smiley, and  
18 there was a huge election law case involving Applewhite  
19 Dam, a San Antonio voter initiative. It was a big  
20 constitutional mess.  
21 Q. So let's go back to your internship briefly.  
22 Bickerstaff, Heath & Riley I believe you said?  
23 A. Smiley.  
24 Q. Smiley. Smiley. And you -- you spoke a little  
25 bit about what the issue was that you've referred to a

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1 constitutional mess. Can you tell me a little bit more  
 2 about the particular case that you were working on?  
 3 A. Well, I'm not sure exactly what all the  
 4 parameters were, but the question was whether or not the  
 5 issue put before the voters on an initiative was  
 6 constitutionally allowable for voters to decide in an  
 7 initiative process.  
 8 Q. And do you know what the issue was that was  
 9 before voters?  
 10 A. Applewhite Dam, a water project.  
 11 Q. So that had nothing do with voter ID?  
 12 A. No.  
 13 Q. Is that correct?  
 14 A. Definitely not.  
 15 Q. Okay. All right. So going back from moving  
 16 forward, as it was, to 1993, 1996, I believe I asked if  
 17 you had any responsibilities dealing with voter ID or  
 18 election law, and --  
 19 A. Definitely not.  
 20 Q. No. Okay. So in 1996 to 2006, when you were  
 21 working in some capacity with Maroney, did you deal with  
 22 election law at all during that time period?  
 23 A. I don't think so. Not that I recall.  
 24 Q. And in 2006 to 2007, when you were at Kutak  
 25 Rock, I believe, did you deal with anything related to

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1 election law or voter ID legislation?  
 2 A. Did not.  
 3 Q. And that was in Arkansas, if I recall  
 4 correctly.  
 5 A. It was.  
 6 Q. Okay. So then in 2007 to 2008, you came back  
 7 to your own firm in Austin. Did you deal with anything  
 8 related to election law or voter ID?  
 9 A. Did not.  
 10 Q. No. All right. And now we're to 2008 to 2012  
 11 where you worked for the Governor, correct?  
 12 A. Right.  
 13 Q. And that would have been Governor Rick Perry at  
 14 the time?  
 15 A. Yes.  
 16 Q. And when you came in to Governor Perry's  
 17 Office, what was your title or what was your title?  
 18 A. Appointments Manager.  
 19 Q. And did you continue to hold that title as  
 20 Appointments Manager through -- through the time that  
 21 you worked for the Governor?  
 22 A. I did.  
 23 Q. Okay. And what were your responsibilities as  
 24 an Appointments Manager?  
 25 A. To assist the Governor in making gubernatorial

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1 appointments.  
 2 Q. Did you have any other responsibilities?  
 3 A. Yes. You know, a variety of other things.  
 4 Q. Tell me what those are.  
 5 A. Well, since I was a lawyer and I was in the  
 6 Appointments Office, I did legal work for the division  
 7 with the -- you know, in consultation of the general  
 8 counsel's office. But I was the lawyer on the side of  
 9 the division.  
 10 Q. Okay. And I want to make sure I understand  
 11 that testimony. You did legal work for the division.  
 12 And you're talking about within Governor Perry's Office?  
 13 A. Right, within the Appointments Division inside  
 14 of Governor Perry's Office.  
 15 Q. Okay. And what did that legal work involve?  
 16 A. Mainly statutory interpretation.  
 17 Q. Of which provisions or what provisions?  
 18 A. Well, anything that comes up in Appointments,  
 19 from water law, river authorities to election code.  
 20 Q. Okay. And would your work have involved  
 21 anything dealing with voter ID legislation?  
 22 A. No. I was on a team that did bill analysis for  
 23 the Governor, you know, with his Policy Office. And so  
 24 one of the groups that I was in, was in legal, and that  
 25 would have dealt with voter ID legislation. But I don't

60

1 have any specific recall of a bill coming up.  
 2 Q. Okay. And just so I understand your testimony  
 3 there, you were on a team that did bill analysis?  
 4 A. Right.  
 5 Q. Who was -- who else was on that team?  
 6 A. Well, it varied, depending on which category we  
 7 were in. My role on the team is that if any  
 8 appointments issue comes up in a bill, to be the  
 9 Appointments person to talk about whether or not, you  
 10 know, a good idea, a bad idea, it needs to be tweaked or  
 11 whatever. So my role as not wholistic. My role was  
 12 limited.  
 13 Q. And again, so I understand what you're talking  
 14 about, when you talk about Appointments issues, how  
 15 would Appointments issues be related to election law,  
 16 for instance?  
 17 A. Well, it wouldn't necessarily be related to  
 18 election law, but it would be related to a whole bunch  
 19 of other kinds of laws. They always -- the Legislature  
 20 always thinks it's a good idea to appointment more  
 21 boards and commissions.  
 22 Q. Okay. Was Michael Schofield on the team that  
 23 you were referencing?  
 24 A. He was in some of the groups that I was in.  
 25 Q. And specifically, do you have any -- any memory

<p style="text-align: center;">61</p> <p>1 of analyzing any voter ID legislation?</p> <p>2 A. I do not.</p> <p>3 Q. Were you involved in any communications</p> <p>4 regarding voter ID legislation while you were in the</p> <p>5 Governor's Office?</p> <p>6 A. No.</p> <p>7 Q. Are you aware of any existing analysis or</p> <p>8 reports regarding voter ID legislation that you may have</p> <p>9 reviewed while you were in the Governor's Office?</p> <p>10 A. No. I didn't review anything.</p> <p>11 Q. So you said you didn't review anything, but you</p> <p>12 said -- you also testified that you were involved in a</p> <p>13 team that conducted bill analysis?</p> <p>14 A. That's right.</p> <p>15 Q. And my understanding is, is you may have been</p> <p>16 involved in the analysis of voter ID legislation?</p> <p>17 A. Right.</p> <p>18 Q. But you don't recall reviewing anything related</p> <p>19 to that?</p> <p>20 A. Bill analysis doesn't mean that everybody in</p> <p>21 the room reviews things.</p> <p>22 Q. Okay.</p> <p>23 A. One person reviews and reports. Everybody else</p> <p>24 has questions, so I didn't -- I didn't have any of my</p> <p>25 own bills.</p>	<p style="text-align: center;">63</p> <p>1 limited role in the Governor's Office working on a team</p> <p>2 that may have reviewed voter ID legislation and a memo</p> <p>3 that you may have prepared some time back during your</p> <p>4 law practice, did you have any other responsibilities or</p> <p>5 involvement in voter ID legislation prior to becoming</p> <p>6 the Director of Elections?</p> <p>7 A. None.</p> <p>8 Q. And I guess I should ask, just to make sure I'm</p> <p>9 clear: Were you involved in any groups prior to</p> <p>10 becoming the Director of Elections that -- that</p> <p>11 supported or promoted voter ID legislation?</p> <p>12 A. No. I don't know what you mean.</p> <p>13 Q. Any groups, any outside groups, groups outside</p> <p>14 of the government?</p> <p>15 A. Advocacy kind of groups?</p> <p>16 Q. Yes.</p> <p>17 A. No.</p> <p>18 Q. Are you a member of any groups outside of the</p> <p>19 government? Political groups?</p> <p>20 A. I'm a member of my church.</p> <p>21 Q. That's a group.</p> <p>22 A. Yeah, that's a group. I don't know of any</p> <p>23 other groups that I would be a member of. I'm a member</p> <p>24 of the Texas Bar Association, the Arkansas Bar</p> <p>25 Association. I'm a member of -- I'm no longer a member</p>
<p style="text-align: center;">62</p> <p>1 Q. Okay.</p> <p>2 A. So I didn't review anything.</p> <p>3 Q. So help me to understand what it is that you</p> <p>4 would have done, what your responsibilities on the team</p> <p>5 would have been.</p> <p>6 MR. SWEETEN: You can answer that as a</p> <p>7 general matter.</p> <p>8 A. And generally speaking, my role was to provide</p> <p>9 input with regard to Appointments issues that come up in</p> <p>10 the bills.</p> <p>11 Q. (By Mr. Gear) Were you present during any</p> <p>12 communications while in the Governor's Office where</p> <p>13 voter ID legislation was the subject matter?</p> <p>14 A. No.</p> <p>15 Q. Have you ever worked as an election judge or an</p> <p>16 election worker in any elections in the state of Texas?</p> <p>17 A. I have not.</p> <p>18 Q. And so my understanding is, is that you are the</p> <p>19 Director of Elections within the Secretary of State's</p> <p>20 Office?</p> <p>21 A. That's correct.</p> <p>22 Q. All right. And you began that January 5th,</p> <p>23 2012?</p> <p>24 A. I did.</p> <p>25 Q. So prior to January 5th, 2012, other than your</p>	<p style="text-align: center;">64</p> <p>1 of any other Young Lawyer group. That's by the</p> <p>2 wayside. But, you know, I don't know. Nothing advocacy</p> <p>3 oriented.</p> <p>4 Q. Are you a member of any -- any political</p> <p>5 organizations, other than the organizations that you've</p> <p>6 mentioned?</p> <p>7 A. No.</p> <p>8 Q. Do you sit on any committees of any kind?</p> <p>9 A. No. In the Governor's Office, one of the</p> <p>10 things that I did was, I was his designee on the Texas</p> <p>11 Access to Justice Commission, but I resigned that when I</p> <p>12 came over to the Secretary of State's Office.</p> <p>13 Q. Texas Access to Justice, can you tell me what</p> <p>14 that is?</p> <p>15 A. It is a group that was formed by the Supreme</p> <p>16 Court, where the Supreme Court, in its order, invited</p> <p>17 the Governor to have a designee present at the</p> <p>18 meetings. And the purpose of the Texas Access to</p> <p>19 Justice Commission is to make sure that indigent persons</p> <p>20 in the state of Texas have access to civil legal</p> <p>21 services.</p> <p>22 MR. SWEETEN: Bruce, I've got an answer to</p> <p>23 your question on the SOS information.</p> <p>24 MR. GEAR: Okay.</p> <p>25 MR. SWEETEN: We can do that at a break,</p>

<p style="text-align: center;">65</p> <p>1 or I can just tell you now.</p> <p>2 MR. GEAR: We can go off the record for a</p> <p>3 second.</p> <p>4 MR. SWEETEN: All right.</p> <p>5 (Brief discussion off the record at</p> <p>6 11:01 a.m.)</p> <p>7 MR. SWEETEN: I let Bruce, at the break,</p> <p>8 know that we had produced a spreadsheet from the</p> <p>9 Secretary of State, and I gave him the Bates numbers.</p> <p>10 MR. GEAR: And I appreciate that. Thank</p> <p>11 you.</p> <p>12 My watch says 12:00 o'clock. Do you need</p> <p>13 a break at all?</p> <p>14 THE REPORTER: Yeah, I would like a break.</p> <p>15 It's 11:00 o'clock, though.</p> <p>16 MR. GEAR: Why don't we take a ten-minute</p> <p>17 break.</p> <p>18 (Recess from 11:02 a.m. to 11:13 a.m.)</p> <p>19 Q. (By Mr. Gear) So we moved through your long</p> <p>20 and illustrious history, work history, and so now we've</p> <p>21 gotten to the point where you are employed with the</p> <p>22 Secretary of State's Office. And so why don't we start</p> <p>23 off by talking about how you came to be employed by the</p> <p>24 Secretary of State?</p> <p>25 A. I had an -- obviously, the Deputy Secretary of</p>	<p style="text-align: center;">67</p> <p>1 No, never have." You know. Just</p> <p>2 strange -- "John, what's this about?"</p> <p>3 "Can't tell you right now."</p> <p>4 Okay. And so then another weird phone</p> <p>5 call about a week later, "Have you ever met the</p> <p>6 Secretary?"</p> <p>7 "No."</p> <p>8 "Why don't you come over and meet the</p> <p>9 Secretary?"</p> <p>10 "Okay. Love to."</p> <p>11 So we dropped by and met the Secretary,</p> <p>12 you know, just coming by to see John and he happened to</p> <p>13 be over there by her, and we just happened to be --</p> <p>14 anyway, it was all very strange, cloak and dagger, and I</p> <p>15 don't know what the deal was.</p> <p>16 But at some point, I had a conversation</p> <p>17 with Coby Shorter who says that Ann McGeehan was</p> <p>18 retiring, and that he had thought of me as a possibility</p> <p>19 to replace her and wanted to know if I was interested.</p> <p>20 And I said "yes." He had already talked to Teresa, my</p> <p>21 boss, so they'd already --</p> <p>22 Q. So was there a formal interviewing process?</p> <p>23 A. There was. I had a formal interview with Coby,</p> <p>24 I don't know sometime after that.</p> <p>25 Q. Okay. So had you ever attended any party</p>
<p style="text-align: center;">66</p> <p>1 State, Coby Shorter, used to be in the Appointments</p> <p>2 Office. He was the Deputy Secretary. He was the Deputy</p> <p>3 Director of Appointments. And whenever I came, he had</p> <p>4 just left, so I was at his desk in the Appointments</p> <p>5 Office. And over the years I got to know Coby. I would</p> <p>6 go to the senior staff meetings sometimes, and he was up</p> <p>7 there, and you know, you just get to know people.</p> <p>8 And after this last legislative session,</p> <p>9 you start the process of thinking about what comes</p> <p>10 next. You can't do appointments for the Governor</p> <p>11 forever, and you have to go back to the work at some</p> <p>12 point. So talked to my director about, you know,</p> <p>13 keeping our ear to the ground and kind of putting</p> <p>14 feelers out, you know, for anything that might be coming</p> <p>15 up.</p> <p>16 And got a weird phone call from John</p> <p>17 Sepehri. It was weird. John Sepehri, I had known for a</p> <p>18 while. He's general counsel in the Secretary of State's</p> <p>19 Office for the last few years. And so I had known him</p> <p>20 in that capacity, and we had lunch a few times. And you</p> <p>21 know, we were friends. And he calls and he says -- just</p> <p>22 asking random questions, election law experience, not</p> <p>23 much. A little bit as it pertains to judicial</p> <p>24 appointments, but not much. And "Ever worked" -- "Ever</p> <p>25 been to party conventions?" "</p>	<p style="text-align: center;">68</p> <p>1 conventions?</p> <p>2 A. No. No. I did the Williamson County</p> <p>3 convention for the Republicans in '08, just because I'd</p> <p>4 never had done any of that stuff before. So at precinct</p> <p>5 convention level, I became the precinct convention</p> <p>6 chairman of the three of us that were meeting, one of</p> <p>7 which was my wife. And we nominated ourselves to be</p> <p>8 delegates to the Williamson County convention, and we</p> <p>9 went. That was quite an entertaining process. You</p> <p>10 would not believe the amount of energy spent in debating</p> <p>11 whether or not the 17th Amendment should stay on the</p> <p>12 platform or not. It was interesting. So that was the</p> <p>13 only time.</p> <p>14 Q. And the 17th Amendment would --</p> <p>15 A. Direct election of senators, yeah. That was a</p> <p>16 hot issue at the Williamson County Republican</p> <p>17 convention.</p> <p>18 Q. And so as we've established already, you -- you</p> <p>19 became employed with the Secretary of State's Office on</p> <p>20 January 5th, 2012?</p> <p>21 A. Yes.</p> <p>22 Q. And did you come in as the Director of</p> <p>23 Elections?</p> <p>24 A. I did.</p> <p>25 Q. And because I don't know, can you tell me what</p>

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1 the -- what the structure of the Secretary of State's  
2 Office is, particularly as it pertains to election laws?  
3 A. Well, we have the Secretary and the Deputy  
4 Secretary. And then under the Deputy Secretary, we've  
5 got several division directors, one of which is the  
6 Elections, so that's me. And then I've got managers,  
7 four of them that are in my division that management  
8 different teams.

9 Q. So let's talk about the managers, and I believe  
10 you said there were four of them. Can you tell me who  
11 they are and what they manage?

12 A. Sure. There's Louri O'Leary, who is the  
13 administration manager, so she -- all the administrative  
14 stuff in the office. She's not really an office  
15 manager. We don't have an office manager, but all of  
16 the administrative support staff kind of things, she's  
17 in charge of, as well as other duties as assigned,  
18 including the ordering of voter registration application  
19 cards, which has turned into a pretty complicated  
20 process.

21 She has within her group kind of a  
22 subgroup of administration. It's called "special  
23 projects." And it's managed by Leticia Salazar, and she  
24 is in charge of doing the training video for volunteer  
25 deputy registrars for election workers. She's in charge

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1 of organizing the seminar and making sure that all the  
2 materials are, you know, that we've got an organized  
3 process for putting the seminar together in August. As  
4 well as she's the Elections Division interface with the  
5 voter education campaigns that the Secretary's engaged  
6 in, you know, any kind of graphic design, website stuff,  
7 that's all special projects.

8 Q. And that's a subgroup under Louri O'Leary?

9 A. Under administration, that's right.

10 Q. Okay.

11 A. So she's kind of -- she's a manager, but she's  
12 a submanager under Louri.

13 And then we've got the Legal Division and  
14 the director of it is -- the manager of it is Elizabeth  
15 Winn. She has been in the Secretary of State's Office  
16 for about 20 years.

17 Q. So she's the institutional knowledge in the  
18 office.

19 A. She's invaluable. Smart, pleasant, hard  
20 worker. Invaluable. And she's got several lawyers  
21 working for her as well as two support people.

22 Q. Okay.

23 A. We're about to have two more lawyers start  
24 three days from now, two days from now.

25 And then we've got the voter registration

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1 team, Betsy Schonhoff is the manager of it. And they  
2 manage the team database and interface with the counties  
3 on any questions the counties have with regard to the  
4 team voter registration database. Betsy's job is to  
5 make sure that her ladies that she's got in her division  
6 are being productive, as well as interfacing with the IT  
7 part of the Secretary of State's Office, which is in a  
8 different division. So she's got one of the IT groups  
9 is devoted to voter registration so she interfaces with  
10 them, and she's the face of the Secretary of State's  
11 Office with the counties.

12 Q. And when you mean "the face," or when you say  
13 "the face," do you mean the point person?

14 A. She's the point person. If the counties have  
15 an issue, they get in touch with Betsy, and Betsy  
16 distributes it out to whoever needs to work on it.

17 And then we've got the Electronic Funds  
18 Management portion of the office. Dan Glotzer is the  
19 one in charge of it. And they are in charge of passing  
20 out money.

21 Q. So if SB 14 was implemented, would -- did you  
22 say Dan Glotzer?

23 A. Glotzer.

24 Q. Glotzer. The funding for SB 14, would it come  
25 through the Electronic Funds division?

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1 A. No. I don't think that there any funding with  
2 SB 14 except for the education component, and it would  
3 come through Electronic Funds Management. It would come  
4 through HAVA.

5 Q. HAVA.

6 A. Yes. HAVA grant.

7 Q. So your testimony is it would not come  
8 through --

9 A. Just that piece.

10 Q. Okay.

11 A. The voter education piece.

12 Q. Okay.

13 A. Any other costs associated with SB 14  
14 implementation would be absorbed by the regular budget.

15 Q. Okay. All right. I think I understand  
16 that. So as the Director of Elections, were you hired  
17 to -- as a lawyer for the Secretary of State? You have  
18 a law degree. Do you -- were you hired to practice law?

19 A. They feel that it's important. Ann McGeehan  
20 was a lawyer. They feel like it's important to have a  
21 lawyer in this position, because there's a whole lot of  
22 legal interpretation that has to go on necessarily with  
23 the election code and the rule making.

24 Q. Do your job -- does your job title or does your  
25 job responsibilities include providing legal advice?



<p style="text-align: center;">73</p> <p>1 A. Yes.</p> <p>2 Q. And generally, what type of legal advice would</p> <p>3 you provide in your position?</p> <p>4 A. I would give legal advice to our communications</p> <p>5 manager, if -- if he wants to do a certain thing in the</p> <p>6 voter education campaign as to whether or not that thing</p> <p>7 would be covered by the HAVA criteria. You know what I</p> <p>8 mean? So just advise him about the extent of HAVA</p> <p>9 funding for voter education campaigns. That -- you</p> <p>10 know, that's just an example, but there are things like</p> <p>11 that where the executive part of the Secretary of</p> <p>12 State's Office needs a legal opinion from the Elections</p> <p>13 Division and that would be my job.</p> <p>14 Q. So would it be the Legal Division that takes</p> <p>15 the primary responsibility of giving such legal advice?</p> <p>16 A. Well, me, I'm the decision-maker. I generally</p> <p>17 get input from my lawyers.</p> <p>18 Q. Do you provide legal advice to the Secretary of</p> <p>19 State?</p> <p>20 A. Yes. Not often.</p> <p>21 Q. Were you hired for that purpose?</p> <p>22 A. It's one of the reasons, yes.</p> <p>23 Q. So, generally, I understand that testimony.</p> <p>24 Can you tell me what your other responsibilities would</p> <p>25 be as the Director of Elections?</p>	<p style="text-align: center;">75</p> <p>1 drafting or proposal of language for SB 14?</p> <p>2 A. No.</p> <p>3 Q. Did your -- or does your responsibility or did</p> <p>4 you ever communicate with any legislature, legislator,</p> <p>5 their staff or the Lieutenant Governor or his staff</p> <p>6 regarding voter ID legislation?</p> <p>7 A. No.</p> <p>8 Q. And again, let me be more specific. Did you</p> <p>9 ever communicate with any of those parties regarding SB</p> <p>10 14?</p> <p>11 A. No. I talked to the Lieutenant Governor and</p> <p>12 his staff a lot of about redistricting but not about SB</p> <p>13 14.</p> <p>14 Q. And generally, what -- even though that is a</p> <p>15 different matter, generally, what would your discussion</p> <p>16 regarding redistricting have to do with?</p> <p>17 A. He was --</p> <p>18 MR. SWEETEN: Hold on a minute. You can</p> <p>19 give general subject matter description.</p> <p>20 THE WITNESS: Right.</p> <p>21 A. You know, generally about the timing of the</p> <p>22 primary election and whether or not we were actually</p> <p>23 ever going to have a primary election and when that</p> <p>24 might be.</p> <p>25 Q. Okay.</p>
<p style="text-align: center;">74</p> <p>1 A. Well, you know, you have to manage the</p> <p>2 division, so that means making sure that everybody is</p> <p>3 playing well together and being productive, and if</p> <p>4 there's a problem, address it. I mean, all the things</p> <p>5 that are related to human resources, you know, stuff,</p> <p>6 and prioritizing the work that needs to be done and</p> <p>7 giving assignments to managers and checking in with them</p> <p>8 on their progress. And you know, finding out if there's</p> <p>9 any hurdles that need to be overcome and how much work</p> <p>10 it's going to be overcome those hurdles. And making</p> <p>11 sure that the executive is appropriately apprised of</p> <p>12 anything that might come up that they might get asked</p> <p>13 about, you know. It's just normal stuff.</p> <p>14 Q. Okay. And it's fair to say that you would --</p> <p>15 you would coordinate with the managers that are</p> <p>16 underneath you in the elections division?</p> <p>17 A. That is correct.</p> <p>18 Q. So at -- in your responsibilities, were you</p> <p>19 involved in any communications with anyone in any state</p> <p>20 agency regarding the drafting of language for voter ID</p> <p>21 legislation?</p> <p>22 A. No.</p> <p>23 Q. And let me be more specific on that question.</p> <p>24 Since you were hired January 5th, 2012, were you</p> <p>25 involved in any communications with anyone regarding the</p>	<p style="text-align: center;">76</p> <p>1 A. It was a much discussed topic.</p> <p>2 Q. And when did that meeting take place?</p> <p>3 A. I -- I didn't have a meeting with the</p> <p>4 Lieutenant Governor. I had conversations with him on</p> <p>5 the phone and his people, and it would have all been</p> <p>6 January, whenever we were having court hearings in San</p> <p>7 Antonio.</p> <p>8 Q. Of 2012?</p> <p>9 A. Right.</p> <p>10 Q. Can you tell me generally what, if any,</p> <p>11 involvement of the department of the Secretary of State</p> <p>12 have in drafting language regarding election laws</p> <p>13 proposed language?</p> <p>14 A. We are a resource for the legislature to use if</p> <p>15 they have any questions about proposed bill language and</p> <p>16 its impact.</p> <p>17 Q. And when you say "a resource," what does that</p> <p>18 involve?</p> <p>19 A. It means we're ready to answer whatever</p> <p>20 questions they have about election bills.</p> <p>21 Q. What resources do you use or does your office</p> <p>22 use to prepare the answers for, generally, for those</p> <p>23 types of questions?</p> <p>24 A. I don't know. I mean, I haven't been through a</p> <p>25 session yet.</p>

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1 Q. So your testimony is, is you have never had to  
2 do that in your capacity as elections director?  
3 A. Not yet. That's right.  
4 Q. Did you have any substantive input regarding SB  
5 14?  
6 A. No.  
7 Q. Did you have any substantive input regarding  
8 any of the voter -- voter ID legislation prior to SB 14?  
9 A. I did not.  
10 Q. Did you have any input at all with anyone  
11 regarding the language of SB 14?  
12 A. No.  
13 Q. Were you aware that voter ID legislation was  
14 controversial?  
15 A. Yes.  
16 Q. And how did you gain that awareness?  
17 A. Watching the session on the computer.  
18 Q. And when you talk about the session, you're  
19 talking about the public hearings, the --  
20 A. Floor debates.  
21 Q. In both the House and the Senate?  
22 A. I don't know. You know, whenever I wasn't  
23 doing anything else.  
24 Q. And what was it that you understood to be  
25 controversial about SB 14?

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1 A. Well, I understood that one side felt it to be  
2 a suppression of the vote, and the other side felt it to  
3 be necessary to protect the integrity of the vote.  
4 Q. And do you have an opinion as to that  
5 controversy?  
6 A. I have always believed that voter ID is a very  
7 small step. You know, there's a balancing act that you  
8 have to take. I talked to the -- one of the directors,  
9 the elections for the Philippines, and they do  
10 fingerprints, they do photos, they do a whole background  
11 check, anybody that registers to vote. They have a  
12 public hearing, you know, and anybody can object to that  
13 person being admitted to register to vote. So, you  
14 know, they're trying real hard to make sure that the  
15 integrity of their voter rolls is maintained. Right?  
16 And the integrity of the vote.  
17 So that on their official list of  
18 registered voters, they have a thumbprint and a picture,  
19 along with the name and address. And the person who  
20 votes has to show a photo ID. And if there's any  
21 discrepancy between the photos, and the election judge  
22 is worried about it, they have to give a thumbprint, and  
23 then they can vote. So it's -- you know, obviously,  
24 that's an extreme one way.  
25 And then you've got the possibility of

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1 anybody showing up on election day and voting with no  
2 controls whatsoever. With nothing. No list of  
3 registered voters. No voter registration. Just vote.  
4 So that's the other extreme.  
5 I think that voter ID is a necessary step  
6 to deal with some portions of possible voter fraud.  
7 It's a small thing on the scale of possible things, and  
8 it would deal with a great deal of impersonation fraud.  
9 That's my opinion.  
10 Q. So what is the purpose of SB 14?  
11 A. I don't know what the legislative purpose of SB  
12 14 is. Colloquially, the purpose of SB 14 is to make  
13 sure that a person who shows up to vote is who they say  
14 they are.  
15 Q. So voter impersonation as it's defined in  
16 elections -- Texas --  
17 A. The other secondary aspect is whenever you have  
18 to get a driver's license or a Texas ID, the Real ID Act  
19 means that you're a citizen so it would have the  
20 indirect benefit, as it were, of making sure that more  
21 noncitizens are not voting.  
22 Q. So it's your understanding that at least in  
23 part, the purpose of SB 14 is to prevent noncitizens  
24 from voting?  
25 A. Right.

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1 Q. And do you -- you indicated that you watched  
2 some of the legislative debate. Did you hear that  
3 argument being made on the Floor during those debates  
4 that SB 14 was, in part, to prevent noncitizens from  
5 voting?  
6 A. I don't remember hearing that specifically,  
7 no. I probably did but -- if it was part of the debate.  
8 Q. So where did you -- where did you gain your  
9 knowledge regarding preventing noncitizens from voting?  
10 Where did you come to understand that?  
11 A. That is just, you know, I've always been very  
12 interested in politics in the news, and it's just  
13 something that I've absorbed from the conversation over  
14 the years.  
15 Q. For instance, were you aware that the  
16 Lieutenant Governor has repeatedly stated that SB 14, in  
17 part, was to prevent noncitizens from voting?  
18 A. I did not know that he had said that.  
19 Q. Are you aware of any legislators making the  
20 statement that SB 14 was, in part, to prevent  
21 noncitizens from voting?  
22 A. I don't know. I mean, probably. Senator  
23 Fraser probably would, but I don't have any specific  
24 recall of him saying that.  
25 Q. Did you have any communications with Senator

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1 Fraser regarding the noncitizen aspect of SB 14?  
 2 A. Absolutely not.  
 3 Q. Did you have any communications with anyone --  
 4 let me narrow that, with any legislators regarding  
 5 noncitizens voting and SB 14?  
 6 A. No.  
 7 Q. Did you have any communications with the  
 8 Secretary of State regarding noncitizen voting?  
 9 A. No.  
 10 Q. And SB 14?  
 11 A. No.  
 12 Q. What about the Lieutenant Governor?  
 13 A. No.  
 14 Q. Anyone in the Governor's office?  
 15 A. No.  
 16 Q. But you understood that to be at least, in  
 17 part, part of the debate regarding SB 14?  
 18 A. I believe that's an indirect benefit of the law  
 19 is it's worded, yes.  
 20 Q. And you said that this was a small necessary  
 21 step to prevent voter fraud; is that accurate?  
 22 A. That is correct.  
 23 Q. Okay. So let's talk about voter fraud for a  
 24 second, and when we say "voter fraud," how are you  
 25 defining that?

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1 A. Well, specifically, I'm talking about voter  
 2 impersonation.  
 3 Q. Okay. Anything else?  
 4 A. Well, I mean, there's all kinds of voter fraud  
 5 that, you know, that can be anything. But, you know,  
 6 voter ID is going to specifically deal with  
 7 impersonation.  
 8 Q. And --  
 9 A. Voting more than one time.  
 10 Q. I'm sorry. When you say "impersonation," you  
 11 mean voter impersonation at the polls?  
 12 A. Correct.  
 13 Q. Okay. And SB 14 does not deal with any other  
 14 type of voter fraud?  
 15 A. I don't know if it does or not. I know that  
 16 primarily, you know, you want to make sure that the  
 17 people who are registered to vote are eligible to vote  
 18 and that they are who they say they are when they show  
 19 up.  
 20 Q. Okay.  
 21 A. And I think that SB 14 will help with both of  
 22 those things.  
 23 Q. Okay. So we talked a little bit about what  
 24 the -- what the Secretary of State's Office or the  
 25 election division does when it receives complaints of

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1 voter fraud. Remember that testimony?  
 2 A. Uh-huh.  
 3 Q. Okay. And so I just want to make sure that I  
 4 understand the -- the realm of voter fraud as it's  
 5 received by the Secretary of State's Office. You  
 6 testified that that could be received from the voter?  
 7 A. Correct.  
 8 Q. From a candidate?  
 9 A. Yes.  
 10 Q. From a local election official?  
 11 A. Yes.  
 12 Q. And there are others who can -- who can provide  
 13 complaints of voter fraud to the Secretary of State's  
 14 Office, correct?  
 15 A. Correct.  
 16 Q. And as you testified, it's anyone who is  
 17 concerned about voter fraud can provide a complaint to  
 18 the Secretary of State's Office?  
 19 A. Right. Anybody that feels like they have  
 20 witnessed something that shouldn't be happening that  
 21 cares enough to report it.  
 22 Q. Okay. And is it -- is it accurate to say,  
 23 based on your testimony, that once a complaint is  
 24 received, you would ask the complainant to complete a  
 25 formal complaint?

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1 A. Correct, if they haven't already.  
 2 Q. All right. And are those complaints sworn or  
 3 unsworn? You know what I mean by that?  
 4 A. I do. And I don't know off the top of my  
 5 head. I would have to look at the form. The form is on  
 6 our website. I don't think it's sworn, but I don't know  
 7 for sure.  
 8 Q. And once you receive a complaint, and "you"  
 9 being you and your office.  
 10 A. Right.  
 11 Q. Once you receive a complaint, you would refer  
 12 that to the OAG's Office?  
 13 A. No.  
 14 Q. Okay. Tell me what you would do.  
 15 A. I would refer it to our Legal Division inside  
 16 of the Elections Division, and they would evaluate the  
 17 complaint and determine whether or not it merits  
 18 referral or not.  
 19 Q. Okay. When you say "evaluate the complaint,"  
 20 we've -- you've provided some testimony already as to  
 21 the fact that the Secretary of State's Office does not  
 22 do its own independent investigation?  
 23 A. That's right.  
 24 Q. So when you say "evaluate," what do you mean by  
 25 that?

<p style="text-align: center;">85</p> <p>1 A. You know, I don't want to -- I haven't ever</p> <p>2 been a lawyer in the Elections Division --</p> <p>3 Q. Okay.</p> <p>4 A. -- under Elizabeth, so I'm not sure exactly</p> <p>5 what all they do. All I see is the report from them</p> <p>6 about whether or not they think it merits referral and</p> <p>7 why, or doesn't merit referral, and so I can infer some</p> <p>8 of the process they go through.</p> <p>9 Q. Who makes the decision as to whether or not a</p> <p>10 complaint merits referral?</p> <p>11 A. I do.</p> <p>12 Q. Okay. And so is there something you're basing</p> <p>13 that on? You've testified before you look at the facts.</p> <p>14 A. Right. And do the facts, as alleged,</p> <p>15 constitute a crime? You know, the election worker was</p> <p>16 rude to me, not a crime.</p> <p>17 Q. Okay.</p> <p>18 A. Right? So if that's all that's been alleged,</p> <p>19 we send it back to the voter and say thank you for your</p> <p>20 concern. We'll try to address that in our training</p> <p>21 materials, and you know, hopefully, you won't be</p> <p>22 mistreated next time you go vote. So you understand</p> <p>23 what I'm saying?</p> <p>24 But if it's -- if it's a voter</p> <p>25 impersonation, which is -- what, a state jail felony,</p>	<p style="text-align: center;">87</p> <p>1 identified by Patrick. Can you tell me generally how</p> <p>2 many complaints were indicated on that spreadsheet?</p> <p>3 A. I don't recall.</p> <p>4 Q. All right. Can you give me a general number?</p> <p>5 A. I don't -- I would be speculating. I don't</p> <p>6 remember.</p> <p>7 Q. Okay. And I think we'll come back to this.</p> <p>8 I'll see if I can pull that and put it in front of you.</p> <p>9 A. Sure.</p> <p>10 Q. So there's a spreadsheet, but let me ask a</p> <p>11 larger question: How are the complaints of voter fraud</p> <p>12 maintained within the Secretary of State's Office?</p> <p>13 A. I don't know for sure all the ways. I know</p> <p>14 that if we've got it in hard copy, we've got a file room</p> <p>15 where the hard copies are kept. I don't know for how</p> <p>16 long they're kept. We also have soft copies, and I</p> <p>17 don't know if we've got all of them in soft copy or not,</p> <p>18 and I don't know how long they're kept.</p> <p>19 Q. And when you say "soft copies," I think</p> <p>20 electronically, but are you talking about by disk, by --</p> <p>21 A. I'm talking about PDFs on the network drives.</p> <p>22 Canned PDFs.</p> <p>23 Q. Okay. And can you tell me how long this</p> <p>24 referral process has been in place with the OAG's</p> <p>25 Office?</p>
<p style="text-align: center;">86</p> <p>1 then if that's what's been alleged, we refer it to the</p> <p>2 OAG. If it's a Class C misdemeanor or no crime, it</p> <p>3 doesn't get a referral. The OAG has -- they've got too</p> <p>4 many cases to work on to do Class Cs.</p> <p>5 Q. Okay. And so we've -- you've testified to</p> <p>6 this, generally, but the types of voter fraud complaints</p> <p>7 that would be received by the Secretary of State's</p> <p>8 Office, can you give me a little bit more detail on</p> <p>9 that?</p> <p>10 A. It's -- it runs the gamut.</p> <p>11 Q. And generally, can you identify what "the</p> <p>12 gamut" is?</p> <p>13 A. Generally is everything.</p> <p>14 Q. Okay. So we're talking about misconduct by</p> <p>15 election officials. Are we also talking about by mail</p> <p>16 ballot fraud?</p> <p>17 A. (Witness nods head yes.) Improper assistance</p> <p>18 at the polling place. I mean, you just -- it's</p> <p>19 everything.</p> <p>20 Q. Okay. And everything that's referred to the</p> <p>21 Secretary of State's Office or to the election division</p> <p>22 does not turn out to be a crime; is that correct?</p> <p>23 A. That is correct.</p> <p>24 Q. Okay. And so you also indicated that you had a</p> <p>25 spreadsheet that you've produced and which has been</p>	<p style="text-align: center;">88</p> <p>1 A. I have no idea.</p> <p>2 Q. Okay. That's generally because you came in</p> <p>3 2012?</p> <p>4 A. Exactly.</p> <p>5 Q. All right. Do you know how far back the</p> <p>6 referrals go on either the hard copies or the PDF</p> <p>7 versions on electronically?</p> <p>8 A. I don't.</p> <p>9 Q. All right.</p> <p>10 A. I would imagine that they go back as far as our</p> <p>11 retention policy requires them to go back, but I don't</p> <p>12 know.</p> <p>13 Q. Okay. And who prepared the spreadsheet that</p> <p>14 was produced in response to -- or to your attorneys?</p> <p>15 A. Jennifer Templeton.</p> <p>16 Q. And who is Jennifer Templeton?</p> <p>17 A. She's my assistant.</p> <p>18 Q. And why did she create this spreadsheet?</p> <p>19 A. We were asked by them.</p> <p>20 Q. By the OAG's Office?</p> <p>21 A. (Witness nods head yes.)</p> <p>22 Q. Do you recall on that spreadsheet how many</p> <p>23 cases of voter impersonation you identified?</p> <p>24 A. I don't.</p> <p>25 Q. Did you identify any cases of voter</p>

<p style="text-align: center;">89</p> <p>1 impersonation on the spreadsheet?</p> <p>2 A. I believe so.</p> <p>3 Q. More than one, less than five?</p> <p>4 A. I don't know.</p> <p>5 Q. So other than Jennifer Templeton -- or strike</p> <p>6 that.</p> <p>7 Is it Jennifer Templeton who maintains</p> <p>8 the -- the files related to voter fraud? Is there</p> <p>9 anyone else that would maintain those files?</p> <p>10 A. No. I mean, it's Louri's group that would --</p> <p>11 so I guess, ultimately, Louri O'Leary is in charge of</p> <p>12 it.</p> <p>13 Q. And Louri O'Leary, again, is in administration?</p> <p>14 A. Correct.</p> <p>15 Q. And would it be Louri O'Leary that ultimately</p> <p>16 makes the referral, or is that something that you</p> <p>17 specifically would do the referral to the OAG's Office?</p> <p>18 A. I do it.</p> <p>19 Q. Okay. In the -- within the Elections Division,</p> <p>20 are the voter fraud files broken down by subject matter?</p> <p>21 A. I don't know. They're categorized in the</p> <p>22 spreadsheet by subject matter.</p> <p>23 Q. And that would have been something that</p> <p>24 Jennifer Templeton did?</p> <p>25 A. And whoever did it before her.</p>	<p style="text-align: center;">91</p> <p>1 testified out of the Secretary of State's Office?</p> <p>2 A. I don't.</p> <p>3 Q. Do you know how many -- do you have any</p> <p>4 knowledge of how many cases of voter fraud have been</p> <p>5 referred to the Texas AG's Office from the Secretary of</p> <p>6 State's Office?</p> <p>7 A. I don't know.</p> <p>8 Q. Do you have a general number?</p> <p>9 A. I don't.</p> <p>10 Q. Would the spreadsheet be reflective of the</p> <p>11 number of complaints both received by the Secretary of</p> <p>12 State's Office and referred to the OAG's Office?</p> <p>13 A. I believe so.</p> <p>14 Q. Would they -- would the spreadsheet also be</p> <p>15 reflective of the number of voter impersonation cases</p> <p>16 that the Secretary of State's Office has referred to the</p> <p>17 OAG's Office?</p> <p>18 A. I believe so.</p> <p>19 Q. Do you have any specific knowledge of voter</p> <p>20 impersonation cases that have been referred to the OAG's</p> <p>21 Office?</p> <p>22 A. I don't. I believe the Medrano case that came</p> <p>23 out of the 2010 election involved voter impersonation,</p> <p>24 but I'm not at all aware of the specifics. I think</p> <p>25 there was two complaints that were referred to the</p>
<p style="text-align: center;">90</p> <p>1 Q. Okay. So I didn't understand your testimony</p> <p>2 to -- to indicate that there was an existing</p> <p>3 spreadsheet. Is that what you're testifying to today?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And so she updated the spreadsheet?</p> <p>6 A. She keeps it updated, yes.</p> <p>7 Q. Okay. And do you know who would have worked on</p> <p>8 the spreadsheet prior to Jennifer Templeton?</p> <p>9 A. I don't.</p> <p>10 Q. Do you know if there was -- do you know if the</p> <p>11 Secretary of State's Office provided testimony during</p> <p>12 the public legislative debates regarding SB 14?</p> <p>13 A. I assume they did.</p> <p>14 Q. All right. Do you know if the information from</p> <p>15 the spreadsheet was used during the testimony during the</p> <p>16 public debates?</p> <p>17 A. I don't know. Probably.</p> <p>18 Q. Do you know who, if anyone, testified out of</p> <p>19 the Secretary of State's Office during the legislative</p> <p>20 debates?</p> <p>21 A. I don't.</p> <p>22 Q. Is it fair to say Ann McGeehan testified?</p> <p>23 A. Probably.</p> <p>24 Q. And other than Ann McGeehan, it's your</p> <p>25 testimony you're not aware of who, if anyone else,</p>	<p style="text-align: center;">92</p> <p>1 OAG. One of those has been tried to conviction in</p> <p>2 Rockwall County earlier this year.</p> <p>3 Q. Okay. So you said -- the Medrano --</p> <p>4 A. Right.</p> <p>5 Q. -- complaint. Tell me what that complaint</p> <p>6 involved.</p> <p>7 A. I don't know.</p> <p>8 Q. Did it involve voter impersonation?</p> <p>9 A. I believe so. It's several species of voter</p> <p>10 fraud, and I'm not sure exactly what the OAG ended up</p> <p>11 prosecuting. It's -- I would have to go look at that</p> <p>12 case.</p> <p>13 Q. And that's M-A-D-R-A-N-O?</p> <p>14 A. M-E-D-R-A-N-O. And it involved a justice of</p> <p>15 the peace race in Dallas County.</p> <p>16 Q. So that was in Dallas County in 2010?</p> <p>17 A. Yes. And I don't know if it was the primary or</p> <p>18 the general. I think it was the Democratic primary.</p> <p>19 Q. And who is Medrano?</p> <p>20 A. The justice of the peace had several family</p> <p>21 members who came in that were involved in whatever went</p> <p>22 on.</p> <p>23 Q. So several family members. You indicated that</p> <p>24 this -- strike that.</p> <p>25 So was this a referral from the Secretary</p>

<p style="text-align: center;">101</p> <p>1 everything.</p> <p>2 Q. And "everything" meaning?</p> <p>3 A. Everything.</p> <p>4 Q. From voter fraud to --</p> <p>5 A. Everything. "The county didn't tell me where</p> <p>6 my polling place was. I want to lodge a complaint."</p> <p>7 Q. Okay. And so in that gamut of complaints, have</p> <p>8 you identified any that deal with voter impersonation?</p> <p>9 A. I haven't done any work with regard to that</p> <p>10 list of complaints at all.</p> <p>11 Q. Okay. Has anyone within your office done any</p> <p>12 work with regard to that list of complaints?</p> <p>13 A. I don't know. I think they might be waiting</p> <p>14 for the new lawyers to spring it on them.</p> <p>15 Q. Let's focus on May 29th for a second. Would</p> <p>16 that be the usual gamut of complaints that are received</p> <p>17 after an election?</p> <p>18 A. During an election, yes.</p> <p>19 Q. And you made a distinguishing point. Are these</p> <p>20 complaints generally received prior to, during or after</p> <p>21 elections?</p> <p>22 A. You know, all three. The preponderance of them</p> <p>23 come during and after, but you can definitely have</p> <p>24 complaints beforehand.</p> <p>25 Q. Okay. And are you aware of any complaints that</p>	<p style="text-align: center;">103</p> <p>1 noncitizens that were not referred to the OAG's Office?</p> <p>2 A. Well, we've got this one from Mr. Barrientos</p> <p>3 this morning that hasn't been referred to the OAG's</p> <p>4 Office.</p> <p>5 Q. Okay. So other than the Barrientos case which,</p> <p>6 again, you received on June 5th, 2012, and is marked as</p> <p>7 Exhibit 553, are you aware of any other cases?</p> <p>8 A. Well, and again, we've got a whole bunch of</p> <p>9 complaints that have to be worked with regard to the two</p> <p>10 recent elections that we've had so there could be some</p> <p>11 in there. I don't know.</p> <p>12 Q. Okay. And you're referring to the May 12th and</p> <p>13 May 29th elections?</p> <p>14 A. Right.</p> <p>15 Q. So other than Exhibit 553, May 12th and May</p> <p>16 29th, are you aware of any other cases that have not</p> <p>17 been referred to the OAG's Office that deal with</p> <p>18 noncitizen voting?</p> <p>19 A. No.</p> <p>20 Q. The answer was "no"?</p> <p>21 A. No.</p> <p>22 Q. I'm sorry. You were covering up your mouth.</p> <p>23 A. Sorry.</p> <p>24 Q. So I believe I asked you this question. You</p> <p>25 were hired January 5th of 2012. Were you involved in</p>
<p style="text-align: center;">102</p> <p>1 are specific to voter impersonation during, before or</p> <p>2 after the May 29th election?</p> <p>3 A. I'm not. And it could be that the Yvonne Ramon</p> <p>4 call came in on the May 29th election. I'm pretty sure</p> <p>5 it was May 12th, but --</p> <p>6 Q. Okay.</p> <p>7 A. -- I want to leave myself some wiggle room</p> <p>8 there. It could have been May 29th.</p> <p>9 Q. Okay. So you're not sure as you sit here?</p> <p>10 A. Not totally sure. It's been kind of a blur</p> <p>11 lately.</p> <p>12 Q. So in your capacity as Director of Elections,</p> <p>13 can you identify any documented cases of noncitizens</p> <p>14 voting?</p> <p>15 A. Uhm...</p> <p>16 Q. And just so I'm clear, cases that have been</p> <p>17 referred to the OAG's Office?</p> <p>18 A. I don't know if we've got any cases referred to</p> <p>19 the OAG for noncitizens.</p> <p>20 Q. And referring to the spreadsheet which you've</p> <p>21 testified about, if there were cases that were referred</p> <p>22 to the OAG's Office regarding noncitizens, would that be</p> <p>23 reflected in that spreadsheet?</p> <p>24 A. Ought to be.</p> <p>25 Q. Are you aware of any cases involving</p>	<p style="text-align: center;">104</p> <p>1 any capacity with reviewing voter ID legislation?</p> <p>2 MR. SWEETEN: Objection, asked and</p> <p>3 answered.</p> <p>4 A. Not reviewing voter ID legislation, no.</p> <p>5 Q. (By Mr. Gear) Okay. So let me just understand</p> <p>6 for the record then. Regarding SB 14, what if any</p> <p>7 responsibilities have you had as the director of</p> <p>8 election?</p> <p>9 A. Since I have been at the Secretary of State's</p> <p>10 Office, I had to submit supplemental information to the</p> <p>11 Justice Department regarding voter ID submission. I had</p> <p>12 to have a conference on the phone with DOJ lawyers</p> <p>13 regarding that submission. I have had to answer</p> <p>14 numerous press questions regarding SB 14 submission</p> <p>15 litigation implementation. I have had to deal with</p> <p>16 legislative calls from senators and representatives</p> <p>17 regarding SB 14 implementation.</p> <p>18 I have had to answer discovery in this</p> <p>19 case, the Holder versus -- or Texas versus Holder case.</p> <p>20 I've had to testify at a hearing over the phone in the</p> <p>21 Texas versus Holder case, and I've had to prepare forms</p> <p>22 for the implementation of SB 14 and submit those to the</p> <p>23 DOJ for preclearance. I've had to revise our election</p> <p>24 worker training manual and submit it to the DOJ for</p> <p>25 preclearance. And I don't know what else.</p>



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1 Q. Okay. I'm not going to go through and  
2 summarize all of that, but is it fair to say that you  
3 have been involved in the Section 5 submission process  
4 and responding to press questions and assisting with  
5 responding to questions related to this lawsuit, Texas  
6 V. Holder?

7 A. Right.

8 Q. And again, so I understand your testimony, is  
9 there any aspect of SB 14 that you were involved with  
10 prior -- prior to the SB 14 being signed by the  
11 Governor?

12 A. No.

13 MR. SWEETEN: Objection, asked and  
14 answered.

15 Q. (By Mr. Gear) Were you involved in any aspect  
16 in -- strike that.

17 Have you ever reviewed any prior voter ID  
18 legislation?

19 A. I don't think so. Not that I recall.

20 Q. Are you aware that there was prior voter ID  
21 legislation prior to SB 14?

22 A. I am.

23 Q. During any aspect of considering SB 14, did you  
24 have an occasion to review any of the prior legislation?

25 A. No.

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1 Q. Do you have any knowledge of what the prior  
2 legislation or the language of the prior legislation?

3 A. No.

4 Q. And so I just want to be clear before we move  
5 on. If I was to tell you that there was legislation in  
6 2005, is it fair to say that you have not reviewed that  
7 legislation?

8 A. I have not.

9 Q. Okay. Is it fair to say that you didn't engage  
10 in communication with any of the legislators regarding  
11 the voter ID legislation in 2005?

12 A. I did not.

13 Q. Okay. And when I say "engaged in  
14 communication," I'm referring to communication that may  
15 have occurred while you were working for the Secretary  
16 of State's Office from 2012 forward.

17 A. I don't understand that at all.

18 Q. Okay. Well, let me break that down, and that  
19 was a little convoluted. I'm just trying to narrow this  
20 down and understand if you've engaged in any  
21 communications with anyone regarding prior voter ID  
22 legislation since you've been the Director of Elections.

23 A. No.

24 Q. Do you know what the purpose -- well, strike  
25 that.

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1 If I was to tell you that the voter ID  
2 legislation from 2005 was HB 1706, would you know that?

3 A. If you say that that's the number, that's the  
4 number. I can look it up.

5 Q. Well --

6 A. I have no -- before you say that number, I  
7 didn't know it existed.

8 Q. Okay. You have no independent knowledge of  
9 that?

10 A. I do not.

11 (Exhibit 101 marked for identification)

12 Q. I'm just going to show you what's been  
13 previously marked as Exhibit 101 in prior  
14 depositions. Just have you take a look at that.

15 A. (Witness reviewing document.)

16 Q. And let me know when you've had a chance to  
17 look at it.

18 A. Okay.

19 Q. Does this refresh your recollection as to the  
20 title of voter ID legislation in 2005?

21 A. I didn't have a recollection to be refreshed.

22 Q. Okay. And can you tell me what this is,  
23 Exhibit 101?

24 A. It looks like an Online Legislative History  
25 form.

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1 Q. Okay. And it refers to HB 1706?

2 A. That's what it says.

3 Q. And you've seen these type of online history  
4 before?

5 A. I have.

6 Q. All right. And so would you have any reason to  
7 believe that there was not voter ID legislation  
8 introduced in 2005 by looking at Exhibit 101, would you  
9 agree with what it says?

10 MR. SWEETEN: Objection, foundation.

11 A. I -- I don't know. I mean, it says  
12 "identification cards." That could be voter ID, I  
13 guess. I don't know. I didn't -- I'm not disputing  
14 it. I just --

15 Q. (By Mr. Gear) You don't know?

16 A. I don't know.

17 Q. Does this refresh your recollection as to  
18 whether or not you ever reviewed any voter ID  
19 legislation from 2005?

20 MR. SWEETEN: Objection, asked and  
21 answered. Go ahead.

22 A. I did not.

23 Q. (By Mr. Gear) Okay. Do you see that Exhibit  
24 101 refers to HB 1706?

25 A. I do.

<p style="text-align: center;">121</p> <p>1 got one then, and I don't think I've had to renew since</p> <p>2 then.</p> <p>3 Q. And when you were in Arkansas, did you have an</p> <p>4 Arkansas driver's license?</p> <p>5 A. I did.</p> <p>6 Q. So what did you have to do to obtain a Texas</p> <p>7 driver's license, if that's what you actually have at</p> <p>8 this point?</p> <p>9 A. I don't know what I had to do.</p> <p>10 Q. Okay. Do you have a Texas driver's license?</p> <p>11 A. I do, and I have renewed it once.</p> <p>12 Q. All right. And did you do it online or did you</p> <p>13 do in person?</p> <p>14 A. In person?</p> <p>15 Q. All right. And you're a resident of which</p> <p>16 county?</p> <p>17 A. At the time I got my driver's license renewed</p> <p>18 and when I got my driver's license, I was a resident of</p> <p>19 Travis County.</p> <p>20 Q. Of Travis County. And does Travis County have</p> <p>21 a driver's license office?</p> <p>22 A. Yes.</p> <p>23 Q. All right. And how far was that office from</p> <p>24 your home at the time?</p> <p>25 A. I don't know.</p>	<p style="text-align: center;">123</p> <p>1 Q. Can a citizen have a temporary driver's</p> <p>2 license?</p> <p>3 A. Well, not that's marked temporary. Whenever</p> <p>4 you get a new picture with a -- you have a paper license</p> <p>5 for a period of time, but it's not a temporary license,</p> <p>6 it's a permanent license that just is in a temporary</p> <p>7 form. Do you know what I mean?</p> <p>8 Q. I think I do. So, at one time another, we were</p> <p>9 all 18 or 17 and getting our driver's license. When you</p> <p>10 first obtained your driver's license, is that a</p> <p>11 temporary? I can't remember that far back.</p> <p>12 A. I don't know. I mean, I remember having a</p> <p>13 learner's permit for about a year and then having a</p> <p>14 driver's license.</p> <p>15 Q. Okay. So, yeah, and I just don't remember that</p> <p>16 far back.</p> <p>17 A. Well, my teenagers have all recently gone</p> <p>18 through this process, and it's basically the same.</p> <p>19 Q. Okay. So let's talk about it in terms of your</p> <p>20 teenagers going through the process. When they go in</p> <p>21 to, to obtain a driver's license, what did they have to</p> <p>22 go through?</p> <p>23 A. They have to -- my daughter just did it. She</p> <p>24 had to round up -- she had to prove that she had had</p> <p>25 drivers' education, right, so she had gone through the</p>
<p style="text-align: center;">122</p> <p>1 Q. All right. But you lived in Travis County when</p> <p>2 you renewed it?</p> <p>3 A. I did.</p> <p>4 Q. Okay. And what city in Travis County did you</p> <p>5 live in?</p> <p>6 A. Austin.</p> <p>7 Q. Austin. And you don't know how far from your</p> <p>8 home to the driver's license office, how far you would</p> <p>9 have had to travel?</p> <p>10 A. No.</p> <p>11 Q. Do you remember what underlying documentation</p> <p>12 you needed to produce?</p> <p>13 A. No.</p> <p>14 Q. Can a temporary driver's license be used to</p> <p>15 vote if SB 14 was implemented?</p> <p>16 A. I think not, because in order to be eligible to</p> <p>17 vote, you have to be a citizen, and a temporary driver's</p> <p>18 license that's marked temporary is proof that someone is</p> <p>19 not a citizen. And so I think if somebody showed up and</p> <p>20 they were registered to vote and they had a temporary</p> <p>21 driver's license, they would probably vote provisionally</p> <p>22 if they said that they have since been naturalized as a</p> <p>23 citizen, and then they would have the six-day cure</p> <p>24 period to go to the voter registrar and present the</p> <p>25 citizenship papers?</p>	<p style="text-align: center;">124</p> <p>1 class work, and so we had that paperwork. She had her</p> <p>2 social security card to prove her citizenship, and she</p> <p>3 had to come up with money, and she had to pass a test,</p> <p>4 then she had to pass a driver's test.</p> <p>5 Q. Does having a Social Security card prove</p> <p>6 citizenship?</p> <p>7 A. Yes.</p> <p>8 Q. Can noncitizens have a social security card?</p> <p>9 A. Not legally.</p> <p>10 Q. Under SB 14, if it was implemented, why</p> <p>11 wouldn't a voter be allowed to show a social security</p> <p>12 card?</p> <p>13 A. It doesn't have a photo on it. It's not part</p> <p>14 of a list of IDs required. And I would imagine that a</p> <p>15 resident alien would be able to get a social security</p> <p>16 card of some sort. I don't know what they have.</p> <p>17 That's -- because they are here legally, they work and</p> <p>18 they get taxes out. I don't know.</p> <p>19 Q. So what forms of ID allowed in SB 14 can</p> <p>20 noncitizens obtain; do you know?</p> <p>21 A. Do you have the list of acceptable IDs?</p> <p>22 Q. Under SB 14?</p> <p>23 A. Under SB 14?</p> <p>24 Q. I do. I'm going to show you what's been</p> <p>25 previously marked as Exhibit Number 5 in prior</p>

<p style="text-align: center;">125</p> <p>1 depositions. Take some time, and then we can talk about</p> <p>2 it.</p> <p>3 A. (Reviewing document.) All right. So some</p> <p>4 noncitizens can have a driver's license. Legal aliens</p> <p>5 and ones who are here on a temporary visa, they've got a</p> <p>6 temporary that's named "Temporary."</p> <p>7 Q. And just -- I'm sorry, I didn't mean to cut you</p> <p>8 off. But just so the record is clear, you're looking at</p> <p>9 Exhibit Number 5, and can you identify what Exhibit</p> <p>10 Number 5 is?</p> <p>11 A. Exhibit Number 5 appears to be a copy of</p> <p>12 SB 14. I assume it was the enrolled version that was</p> <p>13 eventually signed by the Governor.</p> <p>14 Q. And if you look at the last page, do you see</p> <p>15 that it is, if fact, signed by Governor Rick Perry?</p> <p>16 A. Okay.</p> <p>17 Q. So, then this would be the enrolled version as</p> <p>18 you testified?</p> <p>19 A. Right.</p> <p>20 Q. Okay. And so you were referring to a</p> <p>21 particular section in Exhibit Number 5. Can you tell me</p> <p>22 what you're referring to?</p> <p>23 A. I'm referring to Section 14. It's on Page 9 of</p> <p>24 the bill.</p> <p>25 Q. Okay.</p>	<p style="text-align: center;">127</p> <p>1 Q. Okay.</p> <p>2 A. Which one of these forms of ID can a noncitizen</p> <p>3 obtain?</p> <p>4 Q. Yes.</p> <p>5 A. That's the question.</p> <p>6 Q. Yes.</p> <p>7 A. So a noncitizen legal alien can get a driver's</p> <p>8 license; a noncitizen temporary visa person can get a</p> <p>9 temporary driver's license that's marked "Temporary." I</p> <p>10 believe that noncitizens can be in the military and thus</p> <p>11 would be able to have a military identification card.</p> <p>12 Q. Anything else?</p> <p>13 A. I would imagine that noncitizens can get a</p> <p>14 license to carry a concealed handgun. I don't know for</p> <p>15 sure, but I don't think there's citizenship requirement</p> <p>16 there.</p> <p>17 Q. Does a concealed handgun license indicate</p> <p>18 whether you're a citizen or a noncitizen?</p> <p>19 A. I don't believe it does.</p> <p>20 Q. And if I was a voter and I came to the polls on</p> <p>21 election day, I could present, under SB 14, my concealed</p> <p>22 handgun license and vote?</p> <p>23 A. You could.</p> <p>24 Q. And if I was a voter on election day under</p> <p>25 SB 14, if it was implemented, I would present a military</p>
<p style="text-align: center;">126</p> <p>1 A. And it amends Section 63.0101 of the Election</p> <p>2 Code.</p> <p>3 Q. Okay. And so the question that was pending</p> <p>4 before you was: What forms of allowable ID under SB 14</p> <p>5 can noncitizens obtain? Did you need something?</p> <p>6 A. The back, Page 10 is not here.</p> <p>7 MR. SWEETEN: I've got a copy. We've got</p> <p>8 to switch out.</p> <p>9 MR. GEAR: Why don't I do this, just so</p> <p>10 we're -- we're good on this. I'm going to give you --</p> <p>11 I'm going to remark an exhibit as Exhibit 5.</p> <p>12 Mr. Court Reporter, can I do that?</p> <p>13 THE COURT REPORTER: Sure.</p> <p>14 (Exhibit 5 marked for identification.)</p> <p>15 MR. GEAR: And take back the one that I</p> <p>16 gave you, and cross out the exhibit number on there.</p> <p>17 Q. (By Mr. Gear) And so now you're referring to</p> <p>18 page number 10?</p> <p>19 A. Well, 9 and 10 is where 63.0101's list of IDs</p> <p>20 is located.</p> <p>21 Q. Okay. So, and the Exhibit Number 5 that you</p> <p>22 now have in front of you contains Page 9 and 10?</p> <p>23 A. Yes.</p> <p>24 Q. Good. So, do you remember the question?</p> <p>25 A. I do.</p>	<p style="text-align: center;">128</p> <p>1 ID card and vote?</p> <p>2 A. Yes, if it's got a photograph and it hasn't</p> <p>3 being expired earlier than 60 days before the date of</p> <p>4 presentation.</p> <p>5 Q. And are you aware of whether or not military ID</p> <p>6 cards indicate citizenship or noncitizenship?</p> <p>7 A. They do not.</p> <p>8 Q. If I was a voter and I showed up at the polls</p> <p>9 with a temporary driver's license, I could vote?</p> <p>10 A. No, you could not.</p> <p>11 Q. Okay. And specifically, we're referring to if</p> <p>12 SB 14 was implemented.</p> <p>13 A. Correct.</p> <p>14 Q. And why would I not be able to vote?</p> <p>15 A. Because the license, if it's got "Temporary" on</p> <p>16 it, either because it's vertical and it says -- I don't</p> <p>17 remember what they said, but they don't them that way</p> <p>18 anymore -- but anyway, if it says "Temporary" at the</p> <p>19 top, then it's got a term "coterminous" with the visa</p> <p>20 that's supposed to be used for staying in the country,</p> <p>21 then that's evidence that you're not a citizen, on its</p> <p>22 face.</p> <p>23 Q. Okay. How does showing an ID ensure that a</p> <p>24 person is eligible to vote?</p> <p>25 A. It doesn't.</p>

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1 Q. Does that ensure that a person is any more  
2 eligible to vote if they were to show a student ID?

3 A. Well, if you're talking about a driver's  
4 license, you know, illegal aliens are not able to get  
5 drivers' licenses. So, that is what we talked about  
6 before, an indirect effect of SB 14, to eliminate  
7 noncitizens, illegal aliens, as well as the temporary  
8 residents from voting.

9 Q. Let's focus for a second on the temporary  
10 driver's license. Do you know what that looks like, a  
11 temporary driver's license?

12 A. I have not seen a picture of that, no.

13 Q. And you talked about your -- your kids going  
14 through the process. Did any of them have a temporary  
15 driver's license?

16 A. Not the kind of temporary license that I'm  
17 talking about. You're talking about a paper license  
18 that you get while you wait for the picture one. That  
19 is a permanent license, it's just a temporary form of  
20 it.

21 Q. Okay. And I understand that. So as you sit  
22 here today, you couldn't testify as to the actual  
23 writing on a temporary driver's license?

24 A. No. But that part of our process for  
25 implementing SB 14 is, we've got a version of the

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1 handbook for election workers at the DOJ now. That's  
2 going to have to be revised with pictures of the  
3 temporary licenses so that the election workers are  
4 aware of what these are and what they mean. So we've  
5 got some more work to do on that handbook.

6 Q. So ultimately, it's the election worker or the  
7 election judge that would have to decide if an ID that's  
8 being shown on election day is valid or not?

9 A. That's right, which is exactly the way it is  
10 now.

11 Q. I think before the break, we ended with  
12 Exhibit 28, which is HB 218, which is right here?

13 A. Yes.

14 Q. And I was asking you your knowledge of HB 218.  
15 And forgive me if I asked this question, but what's the  
16 purpose of HB 218?

17 MR. SWEETEN: Objection, asked and  
18 answered.

19 Q. (By Mr. Gear) Do you remember that?

20 A. To amend the election code in some respects.

21 Q. And what does it mean to amend the election  
22 code in some respects?

23 A. Well, it means that there is 12 pages of bill  
24 language, with some strikes-outs and some underlines,  
25 indicating that pieces of the election code are being

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1 added to and struck out. We've got a piece of  
2 13.122(a). We've got a piece of 1501.001(a) of the  
3 election code. We've got 32.11 of the election code.  
4 32.111. 32.114. We've got 62.016 of the election  
5 code. 63.001 of the election code. 63.006(a) of the  
6 election code has been modified. 63.007(a) of the  
7 election code has been modified. Section 63.008(a) of  
8 the election code has been modified. 63.0101 of the  
9 election code is amended. 63.011(a) of the election  
10 code is being amended. Section 521.422 of the  
11 Transportation Code is being amended. And I think  
12 that's it.

13 Q. Do you have any idea why there was a need to  
14 amend any of the codes within Exhibit 28, specifically  
15 HB 218, in 2007?

16 MR. SWEETEN: Objection, asked and  
17 answered. Objection, calls for speculation and lack of  
18 foundation. Go ahead.

19 Q. (By Mr. Gear) Well, again, I asked if you have  
20 any -- do you have any understanding as to why there was  
21 a need to amend HB -- or the voter ID legislation? I'm  
22 sorry. Strike that.

23 Do you have any idea why there was a need  
24 to amend election laws in 2007?

25 MR. SWEETEN: Same objection.

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1 A. Well, I don't know the need to amend election  
2 laws in 2007. I imagine that Representative Brown of  
3 Kaufman, Representative Burman, Representative Bohac and  
4 Representative Riddle felt that these changes need to be  
5 made.

6 Q. (By Mr. Gear) And do you, as the Elections  
7 Director, have any personal knowledge or knowledge as to  
8 why there was a need to make changes to the election  
9 code in 2007?

10 MR. SWEETEN: Objection, asked and  
11 answered. Objection, calls for speculation. Objection,  
12 foundation.

13 A. I don't know. I mean, I don't know what all  
14 happened to election code in 2007. I don't know what  
15 was needed and what wasn't.

16 Q. (By Mr. Gear) Do you have any knowledge as to  
17 whether or not HB 218, in part, was designed to prevent  
18 noncitizens from voting?

19 A. I do not.

20 MR. SWEETEN: Objection, asked and  
21 answered.

22 Q. (By Mr. Gear) Do you have any knowledge of any  
23 voter fraud that occurred in 2007?

24 A. If it's on our spreadsheet.

25 Q. Other than what may be contained in the

<p style="text-align: center;">137</p> <p>1 intricacies of those debates or those bills' contents.</p> <p>2 Q. (By Mr. Gear) Okay. And so when you became the</p> <p>3 Director of Elections in 2012, was consideration of any</p> <p>4 of the voter ID legislation that we have just now talked</p> <p>5 about part of your job duties?</p> <p>6 A. No. I wouldn't -- I wouldn't imagine so. At</p> <p>7 that point, we've got a bill. We've got a bill that's</p> <p>8 been passed by the legislature and signed by the</p> <p>9 Governor. It's been submitted for preclearance to the</p> <p>10 Department of Justice. That's the bill that we needed</p> <p>11 to be familiar with and that needed to be prepared to</p> <p>12 implement.</p> <p>13 Q. Okay. So do you know what the -- do you</p> <p>14 understand that the legislation that was introduced in</p> <p>15 2009 was SB 362?</p> <p>16 A. No.</p> <p>17 Q. And if I was to tell you it was SB 362, have</p> <p>18 you ever reviewed SB 362?</p> <p>19 A. Not that I recall.</p> <p>20 Q. Do you know what the purpose of SB 362 was?</p> <p>21 A. No idea.</p> <p>22 Q. And I believe you testified that you reviewed</p> <p>23 or you viewed the legislative debates on your computer</p> <p>24 at work?</p> <p>25 A. That's right.</p>	<p style="text-align: center;">139</p> <p>1 A. I have not.</p> <p>2 Q. You have not reviewed it?</p> <p>3 A. Not reviewed it. Not aware of it. Don't know</p> <p>4 about it.</p> <p>5 Q. Are you aware of any study or analysis that</p> <p>6 considers the burden of voter ID on minority voters?</p> <p>7 A. I'm not aware of any such thing.</p> <p>8 Q. And you haven't reviewed any such analysis?</p> <p>9 A. No.</p> <p>10 Q. As the Director of Elections, are you aware of</p> <p>11 whether or not the Secretary of State's Office has</p> <p>12 conducted an analysis or created a report regarding the</p> <p>13 impact of SB 14 on minority voters?</p> <p>14 A. I think the only thing that would come close to</p> <p>15 that was the exercise that I went through from my letter</p> <p>16 in January of this year.</p> <p>17 Q. And the letter that you're referencing is</p> <p>18 during the submission process?</p> <p>19 A. Yes.</p> <p>20 Q. And that's the letter to the Department of</p> <p>21 Justice?</p> <p>22 A. It is.</p> <p>23 Q. And going back to the 2009 legislation, are you</p> <p>24 aware of the purpose of the 2009 legislation related to</p> <p>25 voter ID?</p>
<p style="text-align: center;">138</p> <p>1 Q. Do you recall --</p> <p>2 MR. SWEETEN: You're talking about the</p> <p>3 '11, or are we talking about '09?</p> <p>4 THE WITNESS: '9 and '11.</p> <p>5 MR. SWEETEN: Okay. Thank you.</p> <p>6 Q. (By Mr. Gear) Regarding '9, 2009, do you recall</p> <p>7 -- do you recall any of the debate dealing with</p> <p>8 preventing noncitizens from voting?</p> <p>9 A. No.</p> <p>10 Q. Do you recall any concerns expressed regarding</p> <p>11 the impact of the 2009 voter ID legislation to -- on</p> <p>12 minority voters?</p> <p>13 A. No, not specifically.</p> <p>14 Q. When you say "not specifically," what do you</p> <p>15 mean?</p> <p>16 A. I know that generally the concern of the</p> <p>17 opponents of the legislation, in all of these years, has</p> <p>18 been that minority voters would be adversely affected.</p> <p>19 Q. So as the Director of Elections -- am I saying</p> <p>20 that right? Director of Elections or Election Director?</p> <p>21 A. It doesn't matter.</p> <p>22 Q. It doesn't matter. Okay. So as the Director</p> <p>23 of Elections, are you aware of any analysis regarding</p> <p>24 any voter ID legislation that, that studies the impact</p> <p>25 of vote ID on minority voters?</p>	<p style="text-align: center;">140</p> <p>1 MR. SWEETEN: Objection, asked and</p> <p>2 answered, but go ahead.</p> <p>3 A. No.</p> <p>4 Q. (By Mr. Gear) So other than SB 14, which</p> <p>5 addresses the issue of voter ID, were you involved in</p> <p>6 any review of any other voter ID legislation?</p> <p>7 A. No.</p> <p>8 Q. Other than voter ID legislation which we have</p> <p>9 now talked about, HB 1706, HB 218, SB 362, are you aware</p> <p>10 of any other voter ID legislation other than SB 14?</p> <p>11 A. No.</p> <p>12 Q. And just so that the record is clear, were you</p> <p>13 involved in any communication regarding any other voter</p> <p>14 ID legislation, other than SB 14?</p> <p>15 A. No.</p> <p>16 Q. From your position as the Elections Director</p> <p>17 for the Secretary of State's Office, have you reviewed</p> <p>18 any analysis or reports related to SB 14?</p> <p>19 A. Well, I don't know. I have looked at the</p> <p>20 letter from Ann McGeehan to the Department of Justice</p> <p>21 September 7th.</p> <p>22 Q. Uh-huh.</p> <p>23 A. That had analysis in it, I guess. I have</p> <p>24 looked at the October 4th letter from Ann McGeehan to</p> <p>25 the Department of Justice. That also had some analysis,</p>

<p style="text-align: center;">141</p> <p>1 that had the spreadsheets that were mentioned in the</p> <p>2 September 7th letter that had the actual spreadsheets</p> <p>3 attached to the October 4th letter. So I don't know, I</p> <p>4 mean. And then obviously, the exercise that we're going</p> <p>5 through since I've been in the office.</p> <p>6 Q. And you're referring to your letter to the</p> <p>7 Department of Justice?</p> <p>8 A. Yes.</p> <p>9 Q. Are you aware of any internal analysis or</p> <p>10 reports that study the impact of SB 14 on minority</p> <p>11 voters?</p> <p>12 MR. SWEETEN: You can answer the question;</p> <p>13 just make sure you're not revealing matters of attorney-</p> <p>14 client privilege.</p> <p>15 A. I don't know what you mean. Any internal</p> <p>16 analysis that we've done --</p> <p>17 Q. (By Mr. Gear) Nonpublic record.</p> <p>18 A. Well, there's not anything separate from what's</p> <p>19 been disclosed to the Department of Justice, no.</p> <p>20 Q. Okay.</p> <p>21 A. That was --</p> <p>22 Q. Okay. So I believe we've already marked SB 14</p> <p>23 as an exhibit?</p> <p>24 A. Yes.</p> <p>25 MR. GEAR: Could we go off the record for</p>	<p style="text-align: center;">143</p> <p>1 it's expired or not. The new law is a driver's license,</p> <p>2 election identification certificate, personal ID card</p> <p>3 that has not expired or expired no earlier than 60 days</p> <p>4 before the date of presentation. So there's a little</p> <p>5 bit -- you couldn't show up with any old driver's</p> <p>6 license, you had to have a fairly current one.</p> <p>7 Q. Is that it?</p> <p>8 A. And they added election identification</p> <p>9 certificate, which is a new form of ID that's free to</p> <p>10 the public who asks for it. And then you could -- they</p> <p>11 added a U.S. military identification card containing a</p> <p>12 person's photograph, as long as it hadn't expired more</p> <p>13 within the 60 days before the election, or more than 60</p> <p>14 days before the election. They added a United States</p> <p>15 citizenship certificate that contains a photograph.</p> <p>16 They changed the passport requirement to say that it had</p> <p>17 to expired -- to have expired no longer than 60 days</p> <p>18 before the election, and they added a license to carry a</p> <p>19 concealed handgun, as long as it hadn't expired 60 days</p> <p>20 before the date of the presentation.</p> <p>21 Q. And before we get into the substance of SB 14,</p> <p>22 were you aware that SB 14 was designated as an emergency</p> <p>23 item during the 2011 legislative session?</p> <p>24 A. I don't know if I remember that or not. I</p> <p>25 guess.</p>
<p style="text-align: center;">142</p> <p>1 a second?</p> <p>2 MR. SWEETEN: Sure.</p> <p>3 (Recess at 1:49 p.m. to 1:50 p.m.)</p> <p>4 Q. (By Mr. Gear) All right. And I believe we</p> <p>5 previously marked SB 14 as Exhibit 5?</p> <p>6 A. Yes, we did.</p> <p>7 Q. And if you look through the stack of exhibits</p> <p>8 there, you have that in front of you now?</p> <p>9 A. I do.</p> <p>10 Q. Can you identify what the allowable forms of ID</p> <p>11 are under SB 14?</p> <p>12 MR. GEAR: Do you have a copy of that,</p> <p>13 Patrick?</p> <p>14 MR. SWEETEN: Oh, I do. Yeah. Thank</p> <p>15 you. I've got other one. I've been in enough of these,</p> <p>16 Bruce. I've got the old copies from you guys.</p> <p>17 Q. (By Mr. Gear) And specifically I'm referring to</p> <p>18 Page 9, I believe, Section 63.0101. And the question</p> <p>19 is: What are the allowable forms of ID?</p> <p>20 A. Yes. 63.0101 it amended to add an election</p> <p>21 identification certificate that's issued by the</p> <p>22 Department of Public Safety, in addition to what was</p> <p>23 already there, a driver's license or a personal</p> <p>24 identification card. And the caveat is that instead of,</p> <p>25 the old law was a driver's license or ID card, whether</p>	<p style="text-align: center;">144</p> <p>1 Q. When you reviewed for -- the notice of</p> <p>2 deposition for documents, did you produce anything</p> <p>3 responsive to communications from the Secretary of</p> <p>4 State's Office regarding the designation of SB 14 -- or</p> <p>5 voter ID as an emergency legislation?</p> <p>6 A. Anything that we had, we would have turned over</p> <p>7 to the OAG. I would -- you know, the Secretary of</p> <p>8 State, as far as I know, is not involved in the</p> <p>9 declaration of emergency legislation. That's not</p> <p>10 something we do.</p> <p>11 Q. When you say it's not something that we do</p> <p>12 referring to the Secretary of State's Office, would they</p> <p>13 ever be involved in providing advice on the designation</p> <p>14 of emergency items or legislation?</p> <p>15 A. I don't know.</p> <p>16 Q. Have you ever done that in your capacity as the</p> <p>17 Director of Elections?</p> <p>18 A. I have not had the benefit of going through a</p> <p>19 session yet, so no.</p> <p>20 Q. So was anyone in the Secretary of State's</p> <p>21 Office, including yourself, involved in the development</p> <p>22 of SB 14?</p> <p>23 A. I don't know.</p> <p>24 Q. Who would know that?</p> <p>25 A. Ann McGeehan.</p>



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1 Q. Were you or anyone in the Secretary of State's  
 2 Office involved in any communications between the  
 3 Secretary of State and Senator Fraser's office during  
 4 the drafting of SB 14?  
 5 A. I don't know.  
 6 Q. And who would know that?  
 7 A. I don't know. Ann McGeehan, probably. I don't  
 8 think that we would be involved in the drafting process  
 9 or the development process. That's not what we do.  
 10 We're a resource witness when they've got bills filed  
 11 but Ann would know.  
 12 Q. Were you or anyone in the Secretary of State's  
 13 Office involved as a resource during the development or  
 14 drafting of SB 14?  
 15 MR. SWEETEN: Objection, asked and  
 16 answered.  
 17 A. I don't know.  
 18 Q. (By Mr. Gear) Well, you know that there was  
 19 testimony given by the Secretary of State's Office  
 20 during the legislative debates, correct?  
 21 A. I believe there was, yes.  
 22 Q. And you know that Ann McGeehan provided  
 23 testimony during SB 14?  
 24 A. I would assume she would be the one.  
 25 Q. And she provided testimony as a resource

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1 witness?  
 2 A. Yes.  
 3 Q. So is it fair to say that your testimony that  
 4 you don't know if the Secretary of State's Office or any  
 5 of the staff within the office provided guidance as  
 6 resource witnesses, is it fair to say that that's not  
 7 entirely true when you say "I don't know"?  
 8 A. No, it's entirely true, because you were asking  
 9 about the resource during the development and drafting  
 10 of the bill, and I don't have any idea what happened  
 11 during the development and drafting of the bill. I  
 12 don't -- I know what happened after the bill was drafted  
 13 and developed as it's going through the legislative  
 14 process, and I only know that in general terms. So no,  
 15 it was entirely accurate.  
 16 Q. What was the purpose of SB 14?  
 17 A. Well, as I mentioned before --  
 18 MR. SWEETEN: Hold on a second.  
 19 Objection, asked and answered. And are  
 20 you asking him his personal opinion about SB 14?  
 21 Q. (By Mr. Gear) As the Director of Elections,  
 22 what's your understanding of the purpose?  
 23 A. It's my understanding that SB 14 is --  
 24 MR. SWEETEN: Objection, relevance. Go  
 25 ahead.

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1 A. Is an attempt to improve the integrity of the  
 2 election process. In general terms, that's what I think  
 3 it's designed to do.  
 4 Q. (By Mr. Gear) And in part, was it designed to  
 5 prevent noncitizens from voting?  
 6 A. That's part of improving the integrity of the  
 7 voting process, to make sure that -- you know, to the  
 8 extent we can, that eligible voters are -- the people  
 9 eligible to vote, vote.  
 10 Q. And I understand your testimony to this point,  
 11 but let me be clear. Did you attend any of the  
 12 legislative debate for 2011?  
 13 A. I did not.  
 14 Q. Did you provide any testimony during the  
 15 legislative debate for 2011?  
 16 A. No. I have to clarify.  
 17 Q. Okay.  
 18 A. I did go to a confirmation hearing when Judge  
 19 Elsa Alcala was up for appointment -- or up for  
 20 confirmation, so I did attend the legislative hearing.  
 21 And so if you're referring to any legislative hearing, I  
 22 did attend. And I did attend a few sessions of the  
 23 House, specifically when the Governor gave the State of  
 24 the State and when Wallace Jefferson gave his State of  
 25 the Judiciary speech. So, if you're talking about

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1 SB 14, that's what I understood your question to be in  
 2 regard to, and the answer is no.  
 3 Q. Thank you. And generally, do you have  
 4 knowledge of the positions taken by the supporters and  
 5 opponents of SB 14?  
 6 A. In general terms.  
 7 Q. Do you recall any of the debate centering on  
 8 preventing noncitizens from voting? And I'm referring  
 9 to SB 14.  
 10 A. Yeah. You know, I don't have any specific  
 11 recall of the terms of the debate. You know, I don't  
 12 know. I know that that was part of the discussion. I  
 13 don't know who was discussing it or what specifically  
 14 was said about it. You know, I understand that to have  
 15 been part of the discussion. I have a recall of, you  
 16 know, that.  
 17 Q. Who, if anyone, do you know engaged -- that  
 18 engaged in the debate about noncitizens voting?  
 19 A. I don't know. I don't know.  
 20 Q. You previously testified that Senator Fraser  
 21 may have engaged in that discussion, correct?  
 22 A. He might have, and I might have heard Trey  
 23 Martinez Fischer with the opposing viewpoint.  
 24 Q. Okay. And what was the opposing viewpoint?  
 25 A. That whenever you're -- it's whenever you're

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1 preventing noncitizens from voting, you're having an  
 2 adverse impact on people who are citizens.  
 3 Q. Do you agree with that opinion?  
 4 A. I do not. That's my personal opinion.  
 5 Q. Do you have an opinion as to whether or not  
 6 SB 14 would have an adverse impact on citizens?  
 7 A. It would not.  
 8 Q. And what are you basing that on?  
 9 A. Well, it's like I said before, SB 14 is an  
 10 incremental step toward increased voter integrity, that  
 11 appears to me to be a reasonable incremental step. And  
 12 yes, there is a small amount of marginal cost, but it is  
 13 worth it in order to further enhance the integrity of  
 14 the election process.  
 15 Q. Okay. You said two different things there, so  
 16 I want to break that out. First, you indicated that it  
 17 was an incremental step. That would suggest, at least,  
 18 that there are other steps to be considered. Have you  
 19 been involved in any communications which would indicate  
 20 that SB 14 was an incremental step?  
 21 A. No. No. You are misunderstanding what I'm  
 22 saying.  
 23 Q. Okay.  
 24 A. I'm saying that it is an incremental step  
 25 toward increasing the integrity of the process. I am

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1 not in any way suggesting that it is an increment as  
 2 part of some greater whole. I am saying that I talked  
 3 to one of the directors of the elections in the  
 4 Philippines, and I know about a much more stringent  
 5 voter ID process that they have. And I am not in any  
 6 way suggesting, advocating, promoting at all that that's  
 7 where we're headed. I'm saying that that's one extreme,  
 8 all right? An extreme that I don't think anybody in  
 9 this country wants to get to, and I don't think we have  
 10 to, because I think we've got good citizens, right?  
 11 So don't hear me saying that we're on a  
 12 road, right? No, not even a little bit.  
 13 Q. Okay. And again, this is my opportunity to  
 14 understand what you know and it's your opportunity to  
 15 testify to it. So, I wasn't suggesting one way or the  
 16 other what you were saying. I was trying to understand  
 17 what you were saying. Do you understand?  
 18 A. I understand, and I appreciate the opportunity  
 19 to clarify.  
 20 Q. Okay. You also indicated that this has a  
 21 marginal cost. What do you mean by that?  
 22 A. Well, there are some people in this state who  
 23 do not have an ID, and they will have to get one if they  
 24 want to vote.  
 25 Q. Okay. And in your position as the Elections

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1 Director for the Secretary of State, do you have an idea  
 2 of the actual number of people that may not possess an  
 3 allowable form of identification under SB 14?  
 4 A. I do not know.  
 5 Q. During the admissions process -- submissions  
 6 process, did you attempt to make that determination?  
 7 A. We attempted to narrow it down.  
 8 Q. And what did you narrow it down to?  
 9 A. Well, we narrowed it down in the fall to  
 10 605,000 that we couldn't prove had an ID, we narrowed it  
 11 down to 795,000 that we couldn't prove had an ID in  
 12 January of this year.  
 13 Q. And that was 795,000-plus voters that may not  
 14 have an allowable form of ID under SB 14?  
 15 A. It was right around 795,000 that may not have  
 16 an acceptable form of ID.  
 17 Q. And do you understand that number to be more or  
 18 less as you sit here today? Higher or lower?  
 19 MR. SWEETEN: Objection. Don't reveal any  
 20 communications you've had with your attorneys in this  
 21 matter, the Attorney General's Office.  
 22 A. The number is substantially less than 795,000.  
 23 Q. (By Mr. Gear) Okay. And what are you basing  
 24 that on?  
 25 A. Because that 795,000 doesn't include anybody

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1 that's got one of the other forms of ID besides a  
 2 driver's license or ID card. It doesn't include anyone  
 3 that has a driver's license or ID card that we failed to  
 4 match. So, in the match criteria, I think I outlined in  
 5 my letter the problems with matching two different  
 6 databases that are not meant to go together.  
 7 Q. Okay. And turning your attention back to  
 8 SB 14, and I believe that was Page 9, Section  
 9 63.0101. Under that section, one form of allowable ID is  
 10 driver's license.  
 11 A. That's right.  
 12 Q. Do you see that? Do you know how many Texans  
 13 in the -- well, how many voters in the state of Texas do  
 14 not have a driver's license?  
 15 A. I have no idea.  
 16 Q. Are you aware of any analysis from the  
 17 Secretary of State's Office that attempts to determine  
 18 how many voters in the state of Texas did not have a  
 19 driver's license?  
 20 A. We did two separate matching exercises, and it  
 21 included driver's license and IDs, so I don't know if  
 22 we've done a separate determination for a driver's  
 23 license only. That's the reason I said I don't know.  
 24 Q. And that was the 600,000 or the 795,000 that  
 25 you're referring to?

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1 A. Correct.  
 2 Q. Do you know how many voters in the state of  
 3 Texas have military IDs?  
 4 A. I do not.  
 5 Q. Has the Secretary of State's Office attempted  
 6 to conduct an analysis or research into the number of  
 7 registered voters who possess military IDs?  
 8 A. As far as I know we haven't, but I don't know.  
 9 Q. Who would know that beyond yourself?  
 10 A. Ann McGeehan.  
 11 Q. And now you've -- you've testified that you  
 12 were involved in the submissions process, correct?  
 13 A. I was.  
 14 Q. And during the submissions process, did you  
 15 attempt to determine how many voters in the state of  
 16 Texas had United States military identification?  
 17 A. I don't know. I was involved at the tail end  
 18 of it. Not that I was involved in. That's the reason  
 19 you would you have to ask Ann McGeehan about what  
 20 happened in the fall.  
 21 Q. Well, and again, I'm trying to limit this to  
 22 your time period in the office.  
 23 A. Right.  
 24 Q. Did you or anyone in your office, at the time  
 25 you were the Director of Elections, attempt to determine

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1 how many voters in the state of Texas possessed a  
 2 military ID card?  
 3 A. And the answer to that question is no.  
 4 Q. Okay. Turning your attention to Page 10 in  
 5 SB 14, it indicates United States citizenship  
 6 certificate issued to the person that contains a  
 7 person's photograph. Do you see that?  
 8 A. Yes.  
 9 Q. Okay. Do you know how many voters in the state  
 10 of Texas possess a United States citizenship certificate  
 11 that's issued to the person that contains a photograph?  
 12 A. No idea.  
 13 Q. Did you or anyone within the Secretary of  
 14 State's Office during your time period as the Director  
 15 of Elections attempt to determine how many voters in the  
 16 state of Texas possess a United States citizenship  
 17 certificate issued to a person that contains a  
 18 photograph?  
 19 A. We did not.  
 20 Q. Are you aware of any reports or analyses that  
 21 were conducted by Ann McGeehan or staff under her that  
 22 attempted to determine how many voters in the state of  
 23 Texas possess the United States citizenship certificate  
 24 issued to a person that contains the person's  
 25 photograph?

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1 A. I don't know of any such analysis.  
 2 Q. SB 14 also allows -- and I'm referring page  
 3 10 -- a license to carry a concealed handgun issued to  
 4 the person by the Department of Public Safety that has  
 5 not expired or that expired no earlier than 60 days  
 6 before the date of presentation. Do you see that?  
 7 A. I do?  
 8 Q. During your time period as Director of  
 9 Elections, and that would be from January 2012 forward,  
 10 have you or anyone in your office attempted to determine  
 11 how many voters in the state of Texas possess a  
 12 concealed handgun license?  
 13 A. Have not.  
 14 Q. And are you aware of any report or analyses  
 15 that, during Ann McGeehan's time period as the Director  
 16 of Elections, which indicate how many voters in the  
 17 state of Texas possess a license to carry a concealed  
 18 handgun?  
 19 A. I'm not aware of any.  
 20 Q. So is it fair to say that you're not aware of  
 21 any studies or analysis, either during Ann McGeehan's  
 22 time period or during yours, that would indicate how  
 23 many voters in the state of Texas actually possess one  
 24 of the allowable forms of ID under SB 14?  
 25 A. I lost you.

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1 MR. GEAR: All right. Let me see if I can  
 2 have you read that back. Let me try that again.  
 3 Q. (By Mr. Gear) Is it fair to say that based on  
 4 your testimony here today that you're not aware of any  
 5 reports or analysis that have been conducted by the  
 6 Secretary of State's Office, either during Ann  
 7 McGeehan's time period or during your time period as the  
 8 Director of Elections, that would show or indicate how  
 9 many voters in the state of Texas possess one of the  
 10 allowable forms of ID under SB 14?  
 11 A. You know, I think we've tried it twice with the  
 12 information that we've got available to us, and so we've  
 13 limited it to less than 795,000, but we don't know how  
 14 much less, and we can't get it any less than that, as  
 15 far as I know.  
 16 Q. Okay. And so the 795,000 is the -- is  
 17 basically no match list, the list of voters that do not  
 18 have allowable form of ID under SB 14? Is that your  
 19 understanding?  
 20 A. That is not -- that is not what that 795,000  
 21 represents.  
 22 Q. Tell me what it represents.  
 23 A. It represents the number of people that we  
 24 can't prove have an ID. Some portion of those have an  
 25 ID. Is it a hundred or 500,000? Don't know.

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1 Q. Okay. So we -- we went through a discussion on  
2 the record about the Secretary of State's -- the  
3 Secretary of State and/or his staff's effort to make a  
4 determination as to what voters, if any, in the state of  
5 Texas, possess the other forms of allowable forms of ID  
6 under SB 14. Do you recall that discussion on the  
7 record?  
8 A. Indeed.  
9 Q. And my question to you previously was: As you  
10 sit here today, can you testify -- strike that.  
11 Are you -- are you aware of any reports or  
12 analysis that were either generated during Ann  
13 McGeehan's time period or during yours, that would show  
14 how many voters in the state of Texas have any of the  
15 other forms of allowable forms of ID under SB 14? And  
16 I'm referring to military ID. I'm referring to handgun  
17 licenses. I'm referring to citizenship certificates.  
18 Are you aware of any reports or analysis that show that?  
19 A. No.  
20 Q. Okay. Are you aware of whether or not the  
21 Secretary of State took a public position on SB 14?  
22 A. We don't -- that's not what we do.  
23 Q. Okay. So based on that testimony, is it fair  
24 to say that the Secretary of State did not take a public  
25 position on any of the voter ID legislation?

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1 A. I believe not. If we did, that would be  
2 extremely out of the ordinary.  
3 Q. And did you take a position on -- a public  
4 position on SB 14?  
5 A. Have not.  
6 MR. GEAR: This might be a good place to  
7 just take a very quick break.  
8 MR. SWEETEN: Okay.  
9 MR. GEAR: Five minutes.  
10 MR. SWEETEN: Sounds good.  
11 (Recess from 2:14 p.m. to 2:21 p.m.)  
12 Q. (By Mr. Gear) So we've been talking about SB  
13 14. In your capacity as the Director of Elections, are  
14 you aware of any attempt by the Secretary of State's  
15 Office to determine the impact of SB 14 on minority  
16 voters?  
17 MR. SWEETEN: Objection, asked and  
18 answered. Go ahead.  
19 A. Other than the exercise that we went through  
20 earlier this year in connection with the submission  
21 process, I don't know of any.  
22 Q. (By Mr. Gear) Okay. Are you aware of any  
23 reports or analysis that were generated by the Secretary  
24 of State's Office during Ann McGeehan's time period that  
25 would have studied the impact of SB 14 on minority

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1 voters?  
2 A. I don't believe that there was any such  
3 analysis.  
4 Q. So what is a military ID?  
5 A. A military ID is a laminated plastic card with  
6 a picture on it that says you're a member of the  
7 military.  
8 Q. Okay. And do you know how many forms of  
9 military ID there are?  
10 A. I have no idea. I know my son's got one for  
11 the Army reserve, and other than that, I don't know  
12 anything about them.  
13 Q. And do you know if civilians have military IDs?  
14 A. I do not.  
15 Q. Contractors?  
16 A. I don't know.  
17 Q. Do you know if all military ID is -- are the  
18 same in the formatting?  
19 A. I don't know.  
20 Q. Do you know why it was determined that military  
21 ID would be acceptable under SB 14?  
22 A. No.  
23 Q. And I think you've seen a military ID because  
24 your son has one, correct?  
25 A. I have.

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1 Q. What is a citizenship certificate?  
2 A. I don't know.  
3 Q. Have you ever seen one?  
4 A. Not that I know of. I have a friend that I  
5 used to practice law with who became a naturalized  
6 citizen several years ago, and I might have seen his  
7 certificate. I don't know.  
8 Q. Do you know how much it cost to obtain a  
9 citizenship certificate?  
10 A. I do not.  
11 Q. So you wouldn't know how much it would cost to  
12 replace a citizenship certificate?  
13 A. I do not.  
14 Q. Do you know what you have to provide, the  
15 underlying documentation that you would have to provide  
16 to obtain citizenship certificate?  
17 A. No.  
18 Q. Do you know how long it would take or it might  
19 take to obtain a citizenship certificate?  
20 A. No.  
21 Q. Do you know how much it costs to obtain a US  
22 passport?  
23 A. I -- yes. I -- but I don't remember. My  
24 daughter got one a couple of years ago, and we paid for  
25 it to be expedited, and I just don't remember.

<p style="text-align: center;">169</p> <p>1 at the job that was extremely broad, and so we were</p> <p>2 working through the process of hold the material,</p> <p>3 collecting the material, finding how much it would cost</p> <p>4 to gather up all the material and check it for</p> <p>5 duplicates, all the stuff you do when you're evaluating</p> <p>6 a public information request. That work was going on</p> <p>7 when I arrived.</p> <p>8 Since I have worked in the Governor's</p> <p>9 office and was familiar with public information requests</p> <p>10 in that role and had familiarity with gathering</p> <p>11 information, evaluating information, asserting</p> <p>12 objections to the Attorney General's Office, I was</p> <p>13 immediately tagged to assist our general counsel in that</p> <p>14 process. So in that role, I looked in quite a bit of</p> <p>15 these documents to generally categorize them.</p> <p>16 Q. And the documents were ultimately produced to</p> <p>17 Ms. Gamboa?</p> <p>18 A. No. They were not.</p> <p>19 Q. Do you know why not?</p> <p>20 A. She never paid the cost deposit, and she never</p> <p>21 renewed her request.</p> <p>22 Q. Are you aware of any analysis that was</p> <p>23 conducted by the Secretary of State's Office or the</p> <p>24 Secretary of State and/or any of her staff that was the</p> <p>25 request of a senator or House member?</p>	<p style="text-align: center;">171</p> <p>1 Q. But as you sit here today, you don't know how</p> <p>2 many different forms of military ID there may be?</p> <p>3 A. No, I do not.</p> <p>4 Q. How would it allowing an employer -- employee</p> <p>5 ID or employer's ID prevent the goals of SB 14?</p> <p>6 A. Same thing.</p> <p>7 Q. Which is?</p> <p>8 A. That it would be susceptible to fabrication.</p> <p>9 Q. Even if it had a photo of the individual --</p> <p>10 A. Sure.</p> <p>11 Q. -- who was presenting it?</p> <p>12 A. Absolutely.</p> <p>13 Q. Are driver's licenses susceptible to</p> <p>14 fabrication?</p> <p>15 A. Yes, they are. But when you fabricate a</p> <p>16 driver's license, you would have to really, really,</p> <p>17 really work at it.</p> <p>18 Q. Couldn't that be true for some of the student</p> <p>19 IDs or --</p> <p>20 A. No.</p> <p>21 Q. -- or employee IDs?</p> <p>22 A. That would be easy. That would be easy. I</p> <p>23 could have made my own employee ID for my law firm, and</p> <p>24 it could look like whatever I wanted it to look like.</p> <p>25 It could say whatever I wanted it to say.</p>
<p style="text-align: center;">170</p> <p>1 MR. SWEETEN: Objection, asked and</p> <p>2 answered.</p> <p>3 Q. (By Mr. Gear) As it relates to SB 14?</p> <p>4 A. Right. I don't have anything specific in</p> <p>5 mind. I don't know of anything that they did or didn't</p> <p>6 do in response to a House member's request. I know that</p> <p>7 generally when we get requests, we do our best to</p> <p>8 fulfill those requests.</p> <p>9 MR. SWEETEN: Just answer his question,</p> <p>10 the question that's he's posing.</p> <p>11 A. Sure, sure.</p> <p>12 Q. (By Mr. Gear) How would allowing a -- how</p> <p>13 would allowing a nonphoto ID prevent the goal of SB 14?</p> <p>14 A. Well, if we're talking about enhancing the</p> <p>15 integrity of the voting process, photo IDs are more</p> <p>16 reliable to determine the identity of the voter.</p> <p>17 Q. Okay. So how would allowing a student ID</p> <p>18 prevent the goal of SB 14?</p> <p>19 A. I don't know for sure, but I would imagine that</p> <p>20 student IDs come in many shapes, forms and sizes and</p> <p>21 would be easy to fabricate.</p> <p>22 Q. And it's fair to say that military IDs come in</p> <p>23 many different forms?</p> <p>24 A. Probably. I don't know if they come in as many</p> <p>25 forms as student IDs.</p>	<p style="text-align: center;">172</p> <p>1 Q. Well, for instance, SB 362 allowed for IDs that</p> <p>2 were issued by federal agencies. Do you believe that</p> <p>3 those would be easy to fabricate?</p> <p>4 A. I do not know.</p> <p>5 Q. Do you know what the circumstances were by</p> <p>6 which the license to carry a concealed handgun were</p> <p>7 included into SB 14?</p> <p>8 A. I do not.</p> <p>9 Q. Do you know the racial composition or the</p> <p>10 racial breakdown of individuals who carry a concealed</p> <p>11 handgun license is in the state of Texas?</p> <p>12 A. I do not.</p> <p>13 Q. What, if any, tools would a poll worker have to</p> <p>14 determine if a driver's license that was presented on</p> <p>15 election day was valid or not?</p> <p>16 A. Well, I don't know for sure what any random</p> <p>17 election worker would have, but part of the training</p> <p>18 would be general familiarity with what a driver's</p> <p>19 license looks like. And specifically, what we're doing</p> <p>20 to add to the training materials with regard to SB 14 is</p> <p>21 the distinction between a temporary driver's license and</p> <p>22 a regular driver's license, so they'll have pictures of</p> <p>23 all three.</p> <p>24 Q. And I'm sorry, temporary driver's license,</p> <p>25 regular driver's license, and what was the third</p>

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1 driver's license?

2 A. Well, there's two kinds of temporary licenses.

3 Q. Okay.

4 A. There's the kind that they used to have that

5 apparently there was a lawsuit to disallow that was

6 vertical that had temporary resident on it, and now it

7 says something else on a horizontal license like

8 everybody else has.

9 Q. But is it fair to say that if someone went

10 through the process of fabricating, and this is a

11 general question, fabricating a driver's license, that

12 the poll workers at the polling place would not have any

13 specific tools other than the training guide to

14 determine if it was valid or invalid?

15 A. Right. I mean, I don't know what other

16 knowledge a poll worker brings to the table whenever

17 they come up, but they would have their general

18 awareness of the world and what driver's licenses look

19 like.

20 Q. So, ultimately, it would be up to the poll

21 worker to determine if a license was valid or invalid?

22 A. Just like it is today.

23 Q. Do you know why student IDs were not allowed

24 under SB 14?

25 A. I do not.

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1 MR. SWEETEN: Objection, calls for

2 speculation. Go ahead.

3 A. I do not.

4 Q. (By Mr. Gear) Do you have any concerns as the

5 Director of Elections that the failure to include the

6 IDs that we've talked about, student IDs, employee IDs,

7 would have a disproportionate impact on minority voters?

8 A. No.

9 Q. And why not?

10 A. Well, why would they?

11 Q. You tell me.

12 A. I'm not aware of any information to indicate

13 that that would have a disproportionate impact on

14 minorities. No.

15 Q. Well, is it true that as the law is today,

16 election laws are today, that a poll worker does not

17 have to verify a voter's identity by looking at a photo

18 ID?

19 A. They don't have to but they can.

20 Q. Sure. But a voter can present a nonphoto ID at

21 the polls today.

22 A. When a voter presents to vote, they can do one

23 of several things.

24 Q. Okay.

25 A. They show their voter registration card. It's

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1 yellow this time. They can present it. If the names

2 match, the election clerk will ask them, "Are you still

3 at this address?"

4 They say "Yes."

5 Perfect voter. You can go vote. Right?

6 Q. Uh-huh.

7 A. You could you show up and you don't have your

8 voter registration certificate. So you've got to come

9 up with one of the other forms of acceptable

10 identification under 63.0101. Right? So it could be a

11 birth certificate. It could be a student ID. It could

12 be a utility bill. It could be a bank statement. It

13 could be a pay stub. It could be other government

14 document. It could be a letter from a government

15 agency. Right?

16 Q. And those would have to have a specific set of

17 identifying information on it?

18 A. Exactly. So that's my point. So when somebody

19 comes in with one of these other forms of

20 identification, whether it's a driver's license or

21 whether it's anything else besides the yellow card, the

22 election worker has to make a judgment in that moment

23 They've got discretion. Is this the same? Right?

24 Q. Okay.

25 A. I -- My name is Brian Keith Ingram. I go by

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1 Keith. Right?

2 Q. Correct.

3 A. So some of my stuff has Keith Ingram on it.

4 Q. Okay.

5 A. Right? Some of my stuff has Keith Ingram from

6 my address in Austin. Some of my stuff has Keith Ingram

7 from my address in Williamson County. Right?

8 Q. Uh-huh.

9 A. So I show up and I present them a document that

10 says "Keith Ingram" from my address in Austin, and I'm

11 in Williamson County, they have to determine whether or

12 not that's me. They've got the discretion to do so.

13 Q. Right.

14 A. And they've got complete discretion to say that

15 Keith Ingram from Austin is not the same as Brian Keith

16 Ingram that's registered to vote in Williamson County.

17 Q. Okay.

18 A. And if I say I am, then I get to vote

19 provisionally. And they will take my provisional

20 ballot, and the ballot board will determine whether or

21 not that's a valid vote or not.

22 Q. Okay.

23 A. I think my chances are not good at that point.

24 Q. Okay.

25 A. Right? So that's the way it works now. Under



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1 this new law, the same amount of discretion, you're  
 2 going have to show them something, and the same  
 3 discretionary process is going to work. Right?  
 4 We have a rule, 81.71, that we've adopted  
 5 to talk about similar names so that under my specific  
 6 example, Keith Ingram and Brian Keith Ingram would  
 7 probably be considered substantially similar names.  
 8 Right? Even though they're different, all I would have  
 9 to do is fill out an affidavit that says Keith Ingram  
 10 and Brian Keith Ingram are the same person; they're me.  
 11 And then I go vote. And my vote counts. It's good.  
 12 If they determine that my name is not  
 13 substantially similar, right, then I will have to vote  
 14 provisionally. The beauty of SB 14 is that I then have  
 15 six days to come talk to the voter registrar and prove  
 16 that I really am the same person. So now then I get an  
 17 opportunity to fix the problem.  
 18 Under current law, I do not get that  
 19 opportunity. So you have the same amount of discretion  
 20 on the part of the poll workers without any opportunity  
 21 to backstop it. You see the difference?  
 22 Q. I do. You said something that was interesting,  
 23 and I just wanted to understand it. Once a voter votes  
 24 provisionally and it goes to the board --  
 25 A. Right.

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1 Q. -- what was the name of the board again?  
 2 A. Ballot board.  
 3 Q. The ballot board. You indicated that my  
 4 chances are not good at that time.  
 5 A. That's right.  
 6 Q. Does that mean my chances that the provisional  
 7 ballot be counted is not good at that time?  
 8 A. Right. Under my example with a different  
 9 address and a different name, my odds are not good at  
 10 going to the ballot board of having my vote count. So I  
 11 will probably get a rejection notice.  
 12 Q. Is it fair to say that in the state of Texas,  
 13 provisional ballots are more likely not to be counted  
 14 than counted?  
 15 A. I don't know.  
 16 Q. Have you ever looked at any studies or analysis  
 17 which would show the percentages of provisional ballots  
 18 that have counted in the state of Texas?  
 19 A. I have not.  
 20 Q. And you also talked about the six days that --  
 21 that an individual would have time sensitive -- that an  
 22 individual would have once they've cast a provisional  
 23 ballot to bring an allowable form of identification back  
 24 to the election board --  
 25 A. Right.

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1 Q. -- to have their vote counted, right?  
 2 A. Right.  
 3 Q. But as you sit here today, if a voter came to  
 4 the polls and they did not have an allowable form of  
 5 identification, can you say how long it would actually  
 6 take for a voter to, for instance, get a birth  
 7 certificate?  
 8 A. I don't know, but a birth certificate I don't  
 9 think would be acceptable under Senate Bill 14.  
 10 Q. Okay. And do you -- could you say how long it  
 11 would take for an individual to get a driver's license  
 12 under the scenario that you just talked about?  
 13 A. I don't know.  
 14 Q. Okay. And when I talked about the birth  
 15 certificate, that's in fact one of the underlying  
 16 documentation that an individual could present --  
 17 A. Right.  
 18 Q. -- to obtain a driver's license?  
 19 A. You know, I don't know how long it takes.  
 20 Right? I know how long it has taken me, and I go right  
 21 down to the health department and get a birth  
 22 certificate in a matter of a couple of hours. Right?  
 23 And then you would have to go to the DPS and wait  
 24 another couple of hours and get a temporary with your  
 25 picture that you could go to the voter registrar with.

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1 Q. Okay. So just so I understand your testimony,  
 2 you said you could get a birth certificate within a  
 3 couple of hours?  
 4 A. Sure. I have recently for my daughter.  
 5 Q. Okay. And do you recall what the cost for a  
 6 birth certificate was?  
 7 A. I don't remember. \$10, \$5, not much.  
 8 Q. But it was not free.  
 9 A. Not free.  
 10 Q. And so would you agree that the underlying  
 11 documents required to get an allowable form of  
 12 identification under SB 14 are not free?  
 13 A. If they had to be bought, they're not free.  
 14 Q. Okay. And if the person didn't have any of the  
 15 underlying documentation, they would have to go about  
 16 whatever process was necessary to get the underlying  
 17 documentation before they could even get a driver's  
 18 license in the state of Texas?  
 19 A. Sure.  
 20 Q. Under the current law, as it is today, what can  
 21 a voter -- a poll worker look at to determine if the  
 22 voter that's before them is actually who they say they  
 23 are? And that's a very broad question, I know. I'm  
 24 just trying to understand, under the current law, what  
 25 can a poll worker consider when Mr. Voter comes into the

<p style="text-align: center;">181</p> <p>1 door to determine if they're really who they say they</p> <p>2 are?</p> <p>3 A. Well, they can look at any of the acceptable</p> <p>4 forms of identification under 63.0101.</p> <p>5 Q. And that includes both photo and nonphoto?</p> <p>6 A. Yes.</p> <p>7 Q. And we talked a little bit about what the</p> <p>8 identifying factors are for the nonphoto, and that</p> <p>9 includes an address, correct?</p> <p>10 A. Right.</p> <p>11 Q. What if anything else does it include?</p> <p>12 A. The name.</p> <p>13 Q. The name. All right. And so if the name and</p> <p>14 the address match the voter registration rolls, then</p> <p>15 that person would be allowed to vote a regular ballot.</p> <p>16 A. If they're on the list of registered voters,</p> <p>17 yes.</p> <p>18 Q. Okay. And if -- if I was married and I changed</p> <p>19 my last name so my maiden name was different but my</p> <p>20 address was correct, that person most likely would be</p> <p>21 allowed to vote a provisional ballot?</p> <p>22 A. I don't know.</p> <p>23 Q. That's based on the discretion of the poll</p> <p>24 worker?</p> <p>25 A. It is.</p>	<p style="text-align: center;">183</p> <p>1 A. Yeah. I don't believe you have to have a voter</p> <p>2 registration card. You only have to have a photo ID and</p> <p>3 --</p> <p>4 Q. If I only have a voter registration card under</p> <p>5 SB 14, I would have to have some other form of ID, and</p> <p>6 that would have to be a photo ID; is that right?</p> <p>7 A. That's right, on the list, and that would</p> <p>8 include a free election identity certificate.</p> <p>9 Q. Under SB 14, does a poll worker also look at</p> <p>10 the address on the ID?</p> <p>11 A. Sure.</p> <p>12 Q. And if the address didn't match the voter</p> <p>13 registration roll, and we're talking about if SB 14 was</p> <p>14 implemented, what would happen?</p> <p>15 A. They would ask, "Do you still live at the</p> <p>16 address on the voter registration roll?"</p> <p>17 Q. Okay. And so, hypothetically, if I was a</p> <p>18 voter, I came in, I showed you my voter ID --</p> <p>19 A. The names match.</p> <p>20 Q. -- the names match, but I had moved recently</p> <p>21 within the same county or within the same precinct, what</p> <p>22 would happen?</p> <p>23 A. Well --</p> <p>24 Q. What should happen, I guess?</p> <p>25 A. What should happen is that you should be</p>
<p style="text-align: center;">182</p> <p>1 Q. Okay. So under SB 14, the consideration of the</p> <p>2 poll worker would be different if it was implemented,</p> <p>3 correct?</p> <p>4 A. Different? It would be different if someone</p> <p>5 came with a voter registration card. Right? If someone</p> <p>6 comes with a voter registration card now, there is no</p> <p>7 other thing the election worker has to think about.</p> <p>8 Q. What would happen then?</p> <p>9 A. They vote. So if SB 14 is implemented and you</p> <p>10 show up with a voter registration card, now then you're</p> <p>11 going to have to have something else.</p> <p>12 Q. Okay.</p> <p>13 A. Right? So your something else could take the</p> <p>14 place of the voter registration card. It doesn't -- you</p> <p>15 don't have to have a voter registration card. I'm just</p> <p>16 saying that persons who show up with that now get to</p> <p>17 vote. If persons who show up with one, if SB 14 is in</p> <p>18 place, have to have another form of ID.</p> <p>19 Q. So my other form of ID is a utility bill.</p> <p>20 A. Not going to work under SB 14.</p> <p>21 Q. You have to have a photo ID?</p> <p>22 A. That's right. It's on the list.</p> <p>23 Q. So both a -- the voter registration card and a</p> <p>24 photo ID, and that is one of the allowable forms of</p> <p>25 voter ID under SB 14, correct?</p>	<p style="text-align: center;">184</p> <p>1 allowed to vote probably. If you've moved into a</p> <p>2 different precinct, it depends on when you moved. You</p> <p>3 know, if you moved within the recent time period before,</p> <p>4 you know, you didn't have time to reregister in your new</p> <p>5 address, then you could vote a limited ballot that's</p> <p>6 common to both precincts.</p> <p>7 Q. And that hypothetical, moving, not changing</p> <p>8 your address, that's something that commonly happens in</p> <p>9 the state of Texas?</p> <p>10 A. People move a lot. Yes.</p> <p>11 Q. How did the exception for individuals with</p> <p>12 disabilities come to be included in SB 14?</p> <p>13 A. I don't know.</p> <p>14 Q. Do you know who made that decision?</p> <p>15 A. I do not.</p> <p>16 Q. Do you know what the purpose of that provision</p> <p>17 was?</p> <p>18 A. No.</p> <p>19 Q. Do you know if it was in response to any</p> <p>20 particular concerns expressed by either supporters or</p> <p>21 opponents of SB 14?</p> <p>22 A. I don't know.</p> <p>23 Q. Do you know how the exception for individuals</p> <p>24 with religious objections came to be included in SB 14?</p> <p>25 A. I do not.</p>

<p style="text-align: center;">185</p> <p>1 Q. Do you know what the purpose of that provision</p> <p>2 was?</p> <p>3 A. Other than what it is,</p> <p>4 Q. All right. And I -- I think I know what you</p> <p>5 mean, but I just want to make sure that your testimony</p> <p>6 is clear. What do you mean by that?</p> <p>7 A. A provision for religious conscience, I mean,</p> <p>8 is what it seems to be.</p> <p>9 Q. Do you know if that was included to address any</p> <p>10 specific concerns?</p> <p>11 A. I do not.</p> <p>12 Q. Are you aware of any communications about that?</p> <p>13 A. I am not.</p> <p>14 Q. Are you aware that the legislature made</p> <p>15 modifications to SB 14 for persons with disabilities?</p> <p>16 A. I know what the bill looks like today.</p> <p>17 Q. And that includes allowances for persons with</p> <p>18 disabilities?</p> <p>19 A. That's right.</p> <p>20 Q. It includes allowances for persons with</p> <p>21 religious objections?</p> <p>22 A. It does.</p> <p>23 Q. Did the legislature make modifications to SB 14</p> <p>24 based on concerns pertaining to racial and ethnic</p> <p>25 minorities?</p>	<p style="text-align: center;">187</p> <p>1 A. No.</p> <p>2 Q. And just to round that off, do you know of any</p> <p>3 specific debates that were offered during the</p> <p>4 legislative debates on SB 14 that addressed the concerns</p> <p>5 of minorities?</p> <p>6 A. I do not.</p> <p>7 Q. Can you describe the provisions in the bill</p> <p>8 that pertain to administration of ID at the polling</p> <p>9 place?</p> <p>10 A. What do you mean?</p> <p>11 Q. Is there anything in SB 14 that pertains</p> <p>12 specifically to the administration of the ID requirement</p> <p>13 at the polling places, at the polls on election day?</p> <p>14 A. Yes.</p> <p>15 Q. Can you describe that for me?</p> <p>16 A. Well, I don't know exactly what your question</p> <p>17 is.</p> <p>18 Q. Well, let's start with a yes. What are you</p> <p>19 referring to in SB 14?</p> <p>20 A. Well, there's several things that relate to</p> <p>21 polling places and presentation of ID in the polling</p> <p>22 place. There's the whole idea that you have to have a</p> <p>23 notice posted about what IDs are required. Then -- so</p> <p>24 that's 15.05. You got to prescribe the wording of the</p> <p>25 section that before voting, you have to provide to</p>
<p style="text-align: center;">186</p> <p>1 MR. SWEETEN: Objection, calls for</p> <p>2 speculation. Go ahead.</p> <p>3 A. I don't know.</p> <p>4 Q. (By Mr. Gear) Is it included anywhere within</p> <p>5 the bill?</p> <p>6 A. I don't know.</p> <p>7 Q. Are you aware of amendments that were offered</p> <p>8 during the legislative debate on SB 14 that would have</p> <p>9 addressed concerns pertaining to racial and ethnic</p> <p>10 minorities?</p> <p>11 A. Not specifically, no.</p> <p>12 Q. When you say "not specifically, what do you</p> <p>13 mean?</p> <p>14 A. I mean, I know there was a lot of amendments</p> <p>15 offered. I don't know what they were or what effect</p> <p>16 they were supposed to have.</p> <p>17 Q. Well, do you know that there was an amendment</p> <p>18 offered to allow tribal identification, for instance?</p> <p>19 A. No. I did know that.</p> <p>20 Q. Do you know that there was an amendment offered</p> <p>21 which would have -- that would have required the</p> <p>22 Secretary of State to track voting based on race?</p> <p>23 A. No.</p> <p>24 Q. Do you know any of the specific amendments that</p> <p>25 were offered during the legislative debates on SB 14?</p>	<p style="text-align: center;">188</p> <p>1 applicants who register to vote whether they wish to</p> <p>2 receive an exemption on the basis of disability, you've</p> <p>3 got to provide them the forms so that they could with</p> <p>4 their voter registration application ask for an</p> <p>5 exemption based on disability. So then there would have</p> <p>6 to be a certificate issued to that voter if they did get</p> <p>7 their disability exemption.</p> <p>8 The Secretary of State and voter registrar</p> <p>9 of each county is required to maintain a website</p> <p>10 providing notice of the identification requirements for</p> <p>11 voting prescribed by Section 63 -- or Chapter 63. So we</p> <p>12 have prescribed that notice, that notice has been</p> <p>13 disseminated, and as far as I know, it's on the county</p> <p>14 websites now. We're supposed to, when this bill is</p> <p>15 implemented, conduct a state-wide effort to educate</p> <p>16 voters regarding the identification requirements.</p> <p>17 There was an RFP put out. That RFP was</p> <p>18 eventually let to Burson Marsteller, that campaign is</p> <p>19 ongoing.</p> <p>20 Q. And the other part of that was, did I hear you</p> <p>21 say "let"?</p> <p>22 A. Let.</p> <p>23 Q. Let. Okay.</p> <p>24 A. You know, there was request for proposal.</p> <p>25 There were bids. There was evaluation of those bids.</p>

<p style="text-align: center;">189</p> <p>1 Q. Okay.</p> <p>2 A. The winning bidder.</p> <p>3 And that was a voter education campaign</p> <p>4 regarding photo ID. Now, that campaign is ongoing right</p> <p>5 now, and it is not about voter ID, because we don't have</p> <p>6 preclearance on this bill. But the money is in place.</p> <p>7 The spots are bought for both the primary and the</p> <p>8 general election. And it's easy to change the content</p> <p>9 back to what was proposed.</p> <p>10 We're going to have to train the election</p> <p>11 workers about the photo ID. We've started that</p> <p>12 process. I mean, we haven't started training them. We</p> <p>13 started the process of the manual. Y'all have got a</p> <p>14 draft in your office now. We're working on the</p> <p>15 Powerpoint video combo.</p> <p>16 Q. That's the training video?</p> <p>17 A. Training video.</p> <p>18 Q. Okay.</p> <p>19 A. We're not going to reshoot the video. We're</p> <p>20 just going to add some Powerpoint slides between what</p> <p>21 already exists. We got to post the notice of acceptable</p> <p>22 identification outside the polling places. And the</p> <p>23 voter must present to an election officer at the polling</p> <p>24 place one form of ID described in Section 63.0101.</p> <p>25 The document required -- on presentation</p>	<p style="text-align: center;">191</p> <p>1 depends on the administration of this bill at the</p> <p>2 polling places?</p> <p>3 A. This success of any election law depends upon</p> <p>4 the administration of the election law at the polling</p> <p>5 place and at the voter registrar's office before the</p> <p>6 polling place.</p> <p>7 Q. And that's also true for SB 14?</p> <p>8 A. That is true for every single election law ever</p> <p>9 adopted.</p> <p>10 Q. Could you describe the election identification</p> <p>11 certificate provision of SB 14?</p> <p>12 A. I don't know much about it. That's a DPS</p> <p>13 question. I just know that they have had to come up</p> <p>14 with an election identification certificate that is good</p> <p>15 for voting but not good for anything else, and I don't</p> <p>16 know any of the particulars on it.</p> <p>17 Q. Do you know how that particular part of SB 14</p> <p>18 was developed?</p> <p>19 A. I don't.</p> <p>20 Q. Do you know what if any role the Secretary of</p> <p>21 State's Office or the Secretary of State and/or her</p> <p>22 staff would have played in the development of the</p> <p>23 election identification certificate?</p> <p>24 A. I do not.</p> <p>25 Q. Do you know if there's any studies, reports or</p>
<p style="text-align: center;">190</p> <p>1 of the document, the election officer is going to</p> <p>2 determine whether the voter's name is on the list of</p> <p>3 registered voters. And when they're making that</p> <p>4 determination, they're supposed to use the standards</p> <p>5 adopted by the Secretary of State. And we've got that</p> <p>6 rule adopted, 81.71, about whether or not the voter's</p> <p>7 name on the documentation they provide is substantially</p> <p>8 similar to but does not match exactly with the name on</p> <p>9 the voter registration list.</p> <p>10 Q. Uh-huh.</p> <p>11 A. So they've got to match the names. If they</p> <p>12 don't match exactly, you know, but they're close, we've</p> <p>13 got four criteria in our rule. I don't remember them</p> <p>14 all off the top of my head. But, you know, if it's a</p> <p>15 last name middle name combo that you only have one or</p> <p>16 the other, that's one of the similar names. If it's a</p> <p>17 commonly accepted abbreviation of one of the names, so</p> <p>18 Beto for Alberto. If there's a middle initial that's</p> <p>19 there or not there -- I mean, we've got several</p> <p>20 descriptions of what they should consider to be</p> <p>21 substantially similar names -- they'll provide them an</p> <p>22 affidavit. They'll provide the voter an affidavit</p> <p>23 stating that the voter is the same person and that voter</p> <p>24 will be allowed to vote.</p> <p>25 Q. Would you agree that the success of SB 14</p>	<p style="text-align: center;">192</p> <p>1 analysis within the Secretary of State's Office which</p> <p>2 address the issue of election identification</p> <p>3 certificates?</p> <p>4 A. I don't know of any.</p> <p>5 Q. When producing documents in response to the</p> <p>6 document request for the notice of deposition, are you</p> <p>7 aware of any documents that were produced that address</p> <p>8 the issue of election identification certificates?</p> <p>9 A. I'm not specifically aware of such things. If</p> <p>10 we had them, they were produced.</p> <p>11 Q. Do you know what, if anything, the election</p> <p>12 identification certificate modeled on or upon?</p> <p>13 A. I do not.</p> <p>14 Q. Do you know what, if any, concerns were</p> <p>15 expressed regarding -- do you know why this</p> <p>16 particular -- how this provision arose or what concerns</p> <p>17 were expressed, if any, about election identification</p> <p>18 certificates?</p> <p>19 MR. SWEETEN: Objection, speculation.</p> <p>20 A. I do not.</p> <p>21 Q. (By Mr. Gear) Are you aware of any concerns</p> <p>22 that the election identification certificates would be</p> <p>23 difficult for Texans to obtain? And Texans, I mean</p> <p>24 voters in the State of Texas.</p> <p>25 MR. SWEETEN: Can you read that back,</p>

<p style="text-align: center;">193</p> <p>1 please?</p> <p>2 (Requested portion read back by the court</p> <p>3 reporter.)</p> <p>4 A. I know what Mr. Perez wrote in his letter to</p> <p>5 me.</p> <p>6 Q. (By Mr. Gear) Okay. So -- and that was Perez?</p> <p>7 A. Right.</p> <p>8 Q. And Mr. Perez wrote you a letter when?</p> <p>9 A. Whenever SB 14 was being presented for</p> <p>10 preclearance.</p> <p>11 MR. SWEETEN: Hold on a second. Who is</p> <p>12 Mr. Perez?</p> <p>13 MR. GEAR: Mr. Perez -- well</p> <p>14 Q. (By Mr. Gear) Who is Mr. Perez? Let's start</p> <p>15 off with that.</p> <p>16 MR. SWEETEN: Is he with DOJ?</p> <p>17 THE WITNESS: I'm not sure -- yeah, he's</p> <p>18 with DOJ. I think he's one of the big bosses.</p> <p>19 MR. SWEETEN: Okay. That's fine. I just</p> <p>20 wanted to make sure.</p> <p>21 Q. (By Mr. Gear) And just so we're being clear,</p> <p>22 you received a letter from the Department of Justice</p> <p>23 that was signed by Mr. Perez?</p> <p>24 A. Right.</p> <p>25 Q. Okay. And so go on. Were you done with your</p>	<p style="text-align: center;">195</p> <p>1 Q. Is that a concern of yours?</p> <p>2 A. Texas is a very large state.</p> <p>3 MR. SWEETEN: Objection, relevance. Go</p> <p>4 ahead.</p> <p>5 A. Texas is a very large state, wide-open empty</p> <p>6 spaces in it.</p> <p>7 Q. (By Mr. Gear) Are you aware of any concerns</p> <p>8 expressed during the legislative debate regarding the</p> <p>9 distance that may need to be traveled by persons who</p> <p>10 would be required to obtain one of the allowable forms</p> <p>11 of ID under SB 14?</p> <p>12 A. I know Mr. Perez's letter.</p> <p>13 Q. Okay. And independent of Mr. Perez's letter,</p> <p>14 are you aware of any legislative debate that addressed</p> <p>15 that matter?</p> <p>16 A. I am not.</p> <p>17 Q. Would it be fair to say that there are voters</p> <p>18 in the state of Texas who may not have allowable form of</p> <p>19 ID that may need to travel a distance of more than 50</p> <p>20 miles to obtain it?</p> <p>21 A. I don't know.</p> <p>22 Q. Have you attempted to make a determination as</p> <p>23 to the distance voters who do not have a form of</p> <p>24 allowable ID under SB 14 would have to travel to obtain</p> <p>25 an allowable form of ID?</p>
<p style="text-align: center;">194</p> <p>1 answer?</p> <p>2 A. And in that letter he expressed concern about</p> <p>3 the ability of voters to get an election identification</p> <p>4 certificate. That's the extent of my knowledge.</p> <p>5 Q. Okay. So as you sit here today, is it your</p> <p>6 testimony that you weren't aware of any concerns</p> <p>7 expressed along those lines during the legislative</p> <p>8 debate for SB 14?</p> <p>9 MR. SWEETEN: Objection, asked and</p> <p>10 answered. Go ahead.</p> <p>11 A. No, sir.</p> <p>12 Q. (By Mr. Gear) Do you have an opinion as to the</p> <p>13 concern that was expressed by Mr. Perez?</p> <p>14 A. I do not.</p> <p>15 Q. Do you know if every county has a driver's</p> <p>16 license office?</p> <p>17 A. I know what Mr. Perez said.</p> <p>18 Q. And what did Mr. Perez say?</p> <p>19 A. He said that, what was it, 81 counties didn't.</p> <p>20 Q. Have you attempted to independently confirm</p> <p>21 that statement?</p> <p>22 A. I have not.</p> <p>23 Q. Do you know if, in fact, there are counties</p> <p>24 that do not have driver's license offices?</p> <p>25 A. I don't.</p>	<p style="text-align: center;">196</p> <p>1 A. I don't.</p> <p>2 Q. You did not make an effort to determine that?</p> <p>3 A. No.</p> <p>4 Q. Do you know if public transportation is</p> <p>5 available to all offices, driver's license offices in</p> <p>6 the State of Texas?</p> <p>7 A. I don't know one way or the other.</p> <p>8 Q. Have you made any determination, you or anyone</p> <p>9 within your office made a determination as to whether or</p> <p>10 not public transportation was available to all driver's</p> <p>11 license offices?</p> <p>12 A. No, we have not.</p> <p>13 Q. Have you attempted to make any determination,</p> <p>14 and "you" meaning you or anyone within your office</p> <p>15 attempted to make a determination as to the burden SB 14</p> <p>16 would place upon minority voters in obtaining an</p> <p>17 allowable form of ID under SB 14?</p> <p>18 A. No.</p> <p>19 Q. Are you aware of any study or analysis that</p> <p>20 would address that issue, the issue of burden to</p> <p>21 minority voters, and I'm speaking specifically of the</p> <p>22 Secretary of State's Office or anyone, any staff within</p> <p>23 the office, are you aware of an existing analysis or</p> <p>24 study?</p> <p>25 A. I am not.</p>

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1 Q. Are you aware of any analysis, report, study  
2 within the Secretary of State's Office which attempted  
3 to determine the underlying cost of documents necessary  
4 to obtain allowable forms of ID under SB 14?  
5 A. No, sir.  
6 Q. Are you aware of what underlying documents are  
7 needed to obtain an election identification certificate  
8 under SB 14?  
9 A. I'm not. I assume it's the Real ID  
10 requirements, whatever those are.  
11 Q. But as you sit here today, you don't know what  
12 the Real ID requirements are?  
13 A. I don't have a list in my head, no, sir.  
14 Q. If documents needed for allowable ID under SB  
15 14 themselves are not free, would you agree that the IDs  
16 required for SB 14 are also -- would also not be free?  
17 A. No, sir.  
18 Q. And why not?  
19 A. Because chances are, people have those  
20 documents already and they don't need to buy them.  
21 Q. Well, let's do a hypothetical. And this is in  
22 general terms. If I was a long-time voter in the state  
23 of Texas, and SB 14 was implemented, and I made a  
24 determination that I did not have any of the allowable  
25 forms of ID under SB 14, and I also did not have any of

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1 the underlying documentation, would you agree that for  
2 me to obtain the underlying documentation, it would --  
3 there would be a cost?  
4 MR. SWEETEN: Objection, assumes facts not  
5 in evidence. You can answer the question.  
6 A. I would imagine that it would cost something.  
7 Sure.  
8 Q. (By Mr. Gear) And not only just in terms of  
9 money, but in terms of time to obtain the underlying  
10 documentation?  
11 A. Probably.  
12 Q. Would you agree with that?  
13 A. If there's a voter that doesn't have either a  
14 form of identification or the underlying documents  
15 required to get such identification.  
16 Q. And so moving forward with that hypothetical,  
17 you agree that there would be a cost to obtaining the  
18 underlying documentation, so would you also agree that  
19 by the time I got to the point where I could afford an  
20 allowable form of identification under SB 14, I have  
21 expended both time and money to do that?  
22 A. No.  
23 MR. SWEETEN: Same instruction.  
24 Q. (By Mr. Gear) And again, this is a  
25 hypothetical.

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1 A. No. I -- I disagree with that.  
2 Q. Well, what part of it do you disagree with?  
3 A. Well, I disagree with the conclusion. If  
4 someone wants to vote, they realize that voter ID is in  
5 place, that they do not have an acceptable form of ID  
6 under 63.0101, then they will have to go to their  
7 important papers drawer, see if they've got a birth  
8 certificate or whatever else is required to obtain such  
9 an ID. And if they don't have one, then they'll have to  
10 order one. That will entail a cost, and it will entail  
11 a little bit of time.  
12 Once they've got their underlying  
13 information --  
14 Q. Uh-huh.  
15 A. -- they can go down to the DPS and get their  
16 free election identification certificate. So how much  
17 time is expended, how much money is expended, I don't  
18 have any idea. It probably will not be very much. And  
19 if someone is interested in voting, and presumably, in  
20 your hypothetical, you've got a long-time voter who is  
21 probably interested in voting, then they're probably  
22 willing to bear that cost, and that's the cost that I  
23 was talking about when I said that voter ID does have a  
24 little bit of cost associated with it.  
25 But you know, probably, when you're

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1 talking about trade-offs, it's worth it for the benefit  
2 that it gets in enhancing the integrity of the electoral  
3 process. See, there's a cost, there's no doubt there's  
4 a cost, but there's also a benefit.  
5 Q. And the benefit as we're describing it in the  
6 hypothetical would be voting?  
7 A. Voting, and knowing who the voters are and that  
8 they're eligible to vote.  
9 Q. Is there any study or analysis that you have  
10 reviewed from the Secretary of State's Office that would  
11 show that the cost to poor voters was considered during  
12 the implementation of SB 14?  
13 MR. SWEETEN: Objection, asked and  
14 answered. Go ahead.  
15 A. I don't -- I don't know of any such study.  
16 Q. Okay. And you have not reviewed any such  
17 study?  
18 A. I have not.  
19 Q. Do you know where you would obtain an election  
20 identification certificate?  
21 A. I don't know. It's my understanding that you  
22 get them at the DPS office, but I don't know.  
23 Q. Do you know the hours of office for the various  
24 DPS offices in the state of Texas?  
25 A. I have no idea.



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1 Q. Excuse me. Would you agree that there are  
2 different office hours, that there are different days of  
3 the week that are actually open in various DPS offices?

4 A. I do not know.

5 Q. Okay. Would you agree that there are full DPS  
6 offices and DPS offices that only provide partial  
7 services?

8 A. I don't know.

9 Q. Have you ever attempted to determine that?

10 A. I have not.

11 Q. Any concern that for someone who has a very  
12 little income, the little bit of cost might mean that he  
13 or she cannot participate in the election --

14 MR. SWEETEN: Objection.

15 Q. (By Mr. Gear) -- and I'm talking about voting  
16 in the state of Texas?

17 MR. SWEETEN: Just the question is vague,  
18 and objection, relevance, but go ahead, you can answer

19 A. It has been my experience that people come up  
20 with money for what they want to come up with money  
21 for. Period.

22 Q. (By Mr. Gear) Okay. Would you agree that  
23 voting is a right?

24 A. Yes.

25 Q. Would you agree that that right may be affected

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1 if a -- for instance, a poor voter didn't have the  
2 little bit of cost that you referenced in your testimony  
3 if SB 14 was implemented?

4 MR. SWEETEN: Objection, assumes facts not  
5 in evidence.

6 A. Yeah. I don't know.

7 Q. (By Mr. Gear) Are you aware of whether or not  
8 any purpose of SB 14 was for partisan purposes?

9 MR. SWEETEN: Objection, asked and  
10 answered.

11 A. I have no idea what -- I don't know.

12 Q. (By Mr. Gear) Was SB 14 designed to address  
13 any particular problem?

14 MR. SWEETEN: Objection, asked and  
15 answered. Objection, calls for speculation.

16 A. I don't know if it was intended to address any  
17 particular problem. In my experience at the Secretary  
18 of State's office, there are several problems that could  
19 be addressed by SB 14, yes.

20 Q. And what are those problems?

21 A. Well, voter impersonation.

22 Q. Anything else?

23 A. Noncitizens voting.

24 Q. Anything else?

25 A. I can't think of anything else, but those are

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1 the enhancements to the election process's integrity  
2 that I think are important.

3 Q. So other than your testimony today, and I  
4 certainly understand that, are you aware of any other  
5 evidence that -- that may exist that shows that either  
6 voter impersonation or noncitizens voting at the polling  
7 place actually exists?

8 MR. SWEETEN: Objection, asked and  
9 answered. Go ahead.

10 A. The thing is that voter impersonation under our  
11 current system would be almost impossible to detect  
12 outside of serendipity. So saying that we're not aware  
13 of cases of voter impersonation is not particularly  
14 useful. How would we know? We would know if a precinct  
15 worker is checking in a voter with a certificate with  
16 the name of a person that they know and they know that  
17 ain't them. Right? Serendipity is the only way we  
18 would know about voter impersonation right now.

19 And the opportunity for voter  
20 impersonation is quite large, both active fraud cases as  
21 well as opportunity cases. There was a case not too  
22 long ago where -- was it earlier this year, where a  
23 woman had an interest in elections. She was either the  
24 candidate for city council or advocated strongly for the  
25 candidate, and she had her son, who was a junior, take

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1 her dad -- his dad's voter card and go vote his dad's  
2 card. So when dad showed up to vote, it had already  
3 been voted.

4 So voter impersonation happens. We don't  
5 know how often it happens, because we can't know how  
6 often it happens, because we don't check.

7 Q. (By Mr. Gear) Now, you referenced a case that  
8 you believe happened this year. Can you give me some  
9 detail about it?

10 A. I just gave you all the details I know. It was  
11 in the newspaper.

12 Q. Are you sure that it was this year?

13 A. I'm pretty sure it was this year.

14 Q. And do you know the name of that voter --

15 A. I do not.

16 Q. -- that you referenced? Do you know the name  
17 of the son that you referenced?

18 A. (Witness shakes head no.)

19 Q. Do you know the name of the person that they  
20 supposedly impersonated?

21 A. It was daddy, her husband.

22 Q. And do you know when that newspaper article  
23 came out?

24 A. Within the last month.

25 Q. Was that -- was that incidence of voter

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1 impersonation referred to the Secretary of State's  
 2 Office?  
 3 A. I don't know. It could have been. It could  
 4 have been in that list of complaints that we haven't  
 5 worked yet.  
 6 Q. So is it fair to say there's been no formal  
 7 investigation by the Attorney General's Office?  
 8 A. Not as far as I know. I think the local law  
 9 enforcement, local DA was looking into it according to  
 10 the newspaper.  
 11 Q. And other than newspaper articles, are you  
 12 aware of any other allegations related to that -- to  
 13 that allegation or that complaint?  
 14 A. I don't think so, no.  
 15 Q. You testified that the only way that there  
 16 would be any evidence of voter impersonation was if the  
 17 poll worker knew the person that was presenting the card  
 18 as not being the person who they say they are, is that  
 19 --  
 20 A. Right. They either know the name on the card  
 21 or they know the person and they know they are not the  
 22 same person.  
 23 Q. Wouldn't you agree that there are other ways to  
 24 determine if voter impersonation was occurring?  
 25 A. You tell me what they are.

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1 Q. Well, I'm not actually here to testimony.  
 2 A. Because I can't think of any. How else would  
 3 anybody know? If you show up with the yellow card to  
 4 vote -- if I show up with the yellow card to vote and it  
 5 says "Mary Jane Smith," probably, the election worker  
 6 would be suspicious because I don't look like Mary Jane,  
 7 right?  
 8 Q. Uh-huh. Hypothetically.  
 9 A. If I get my wife to take "Mary Jane Smith,"  
 10 then we got something: This fellow who might have been  
 11 voting several cards down there in Hidalgo County.  
 12 Q. You don't know who identified him, if anyone,  
 13 to -- that he was committing voter impersonation --  
 14 A. That's right.  
 15 Q. -- if that's, in fact, what he was committing?  
 16 A. And the reason that he was even suspicious is  
 17 because poll workers thought they had seen him before.  
 18 Q. A voter, for instance, could identify someone,  
 19 and according to your testimony, that that happens, that  
 20 voters can identify individuals who they believe are  
 21 committing voter fraud. Is that fair to say?  
 22 A. Right. But how would you know? How would the  
 23 voter know? The voter wouldn't know what name they were  
 24 presenting when they -- I could show up to vote at the  
 25 polling place, and I could see my friend Bob, and I

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1 could say, "Hey, Bob, what's up?" Right? And Bob could  
 2 be giving his name to the registrar as "John." Right?  
 3 And he could be voting John's card. I wouldn't know  
 4 that. I know Bob, but I don't know what name he's  
 5 voting under.  
 6 Q. But it still doesn't eliminate the possibility  
 7 that --  
 8 A. Serendipity could happen.  
 9 Q. -- that during that scenario that you have just  
 10 testified to, that that voter would realize something  
 11 was not right and say something about it.  
 12 A. They could. That's what I'm talking about:  
 13 serendipity.  
 14 Q. Okay.  
 15 A. A few isolated instances where something  
 16 happened to catch somebody who was committing voter  
 17 fraud.  
 18 Q. And there are poll watchers in the polling  
 19 place, correct, at times?  
 20 A. That's true. That's right.  
 21 Q. There are federal observers in the polling  
 22 place at times?  
 23 A. Yes, there are.  
 24 Q. There are candidates who, as you've testified  
 25 before, have introduced at least allegations of voter

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1 fraud in the past; is that accurate? And I'm talking  
 2 about voter fraud in general.  
 3 A. Uh-huh. Candidates have made allegations of  
 4 voter fraud on the part of their opponents, yes.  
 5 Q. Sure. So there's any number of individuals who  
 6 can identify alleged cases of voter fraud, if I  
 7 understand your testimony.  
 8 A. Voter fraud, yes. Voter impersonation, very  
 9 difficult to detect.  
 10 Q. But each and every one of the individuals that  
 11 we've just talked about here today would have the  
 12 ability to identify voter impersonation if -- if they  
 13 believed it occurred; is that correct?  
 14 A. They would not. That is my point. They would  
 15 not. If I'm a poll watcher for a candidate, and I'm  
 16 standing there observing, and I see somebody come in and  
 17 present a yellow card, there is no way for me to know  
 18 what name is on that card, what name they have in their  
 19 back pocket in the driver's license, and whether they're  
 20 the same or not.  
 21 Q. Well, having done election coverages for a  
 22 long, long time, is it accurate to say that poll  
 23 watchers at times, not always, but at times have copies  
 24 of the voter registration rolls?  
 25 A. I don't know.

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1 Q. Have you ever observed an election -- have you  
2 ever been inside the polling place to actually observe  
3 an election as it goes on?

4 A. No. I mean, I've been to vote.

5 Q. Okay. So other than voting and leaving --

6 A. But if they had an official list of registered  
7 voters, that wouldn't help them.

8 Q. Well --

9 A. Do you understand that it wouldn't help them?

10 Q. Is it also true, and I may know the answer or  
11 your response to this, but is it also true that during  
12 elections, poll workers often call out who is the name  
13 of that voter and compare it to the voter registration  
14 roll that they have?

15 A. Sure.

16 Q. You know that to be true?

17 A. Absolutely.

18 Q. Okay. And is it also true that poll watchers  
19 have the ability to challenge voters within the polling  
20 place?

21 A. I don't know.

22 Q. One of election laws in the state of Texas, if  
23 I, Mr. Poll Watcher, don't believe that a person is who  
24 they say they are, do I have the authority under  
25 election law to challenge that voter?

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1 A. I don't think so. I mean, I'd have to look at  
2 the election code and to make sure, but --

3 Q. Is it fair to say as you sit here today, you're  
4 not aware of what the election law provides regarding  
5 the ability of poll workers to challenge -- I'm sorry,  
6 poll watchers to challenge voters in the polling place?

7 A. No. I know they can challenge the assistants.  
8 I don't know if they can challenge a voter. That's a  
9 good question. I'd have to look. But they would have  
10 to have some idea that that voter is not who they are  
11 presenting themselves to be. That's the piece that is  
12 missing. That is the piece that voter ID supplements.

13 Q. And as the law is today, what are the penalties  
14 for voter impersonation?

15 A. Voter impersonation right now I think is a  
16 state jail felony. Under SB 14, it goes up to a second-  
17 degree felony.

18 Q. So is it two to ten years?

19 A. I don't know what the penalty is for state jail  
20 felonies.

21 Q. But that would include jail time and the  
22 possibility of a fine, correct?

23 A. Absolutely.

24 Q. All right. Any reason to believe that criminal  
25 penalties aren't sufficient to deter voter

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1 impersonation?

2 A. I don't know. Anytime a potential criminal is  
3 evaluating conduct like that, they have to do a risk-  
4 benefit analysis, don't they?

5 Q. Well, that's an interesting statement. When  
6 you say "risk-benefit analysis," what do you mean?

7 A. I mean the risk of getting caught and suffering  
8 the punishment versus the benefit of getting to cast an  
9 extra vote.

10 Q. Would you agree that voter impersonation in the  
11 state of Texas, if it occurs, is rare?

12 A. I don't know.

13 Q. Have you ever heard about voters who did not  
14 vote because they were concerned that voter fraud would  
15 cancel out their vote?

16 A. Well, Mr. Barrientos makes allusion to that in  
17 his e-mail this morning.

18 Q. And you're referring to Exhibit Number 553?

19 A. Yes.

20 Q. And so where does he make that reference?

21 A. "Someone complained that requiring voter  
22 eligibility or identification is voter intimidation, but  
23 the underlying rationale remains that voter fraud or  
24 abuse taints the democratic election process, dilutes  
25 the true vote, and should not be ignored due to

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1 political correctness."

2 Q. Okay. And so my question was: Ever hear about  
3 a voter who did not vote because they were concerned  
4 that voter fraud would cancel out their vote?

5 A. No.

6 MR. SWEETEN: Objection, asked and  
7 answered.

8 Q. (By Mr. Gear) And your answer was "no"?

9 A. The answer is I haven't heard of any specific  
10 voter that hasn't voted. I have heard from a general  
11 lot of voters who think their vote doesn't count.

12 Q. Do you have any knowledge as to whether SB 14,  
13 if implemented, would increase voter turnout?

14 A. I do not know.

15 Q. Has the Secretary of State's Office or more  
16 correctly, has the Secretary of State or any of his  
17 staff conducted any analysis which would support that  
18 voter turnout could increase if SB 14 was implemented?

19 A. I don't believe we've done any such analysis.

20 Q. I want to change your focus briefly on -- on  
21 the absentee ballots, and I just want to know, what must  
22 a voter do to vote an absentee ballot in the state of  
23 Texas?

24 A. Currently?

25 Q. Currently.

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- 1 A. They have to apply for the ballot by mail, have  
2 to receive it, fill it out and return it in time.  
3 Q. And in Texas, as I remember it, absentee ballot  
4 voting is called "early voting by mail"?  
5 A. Absentee ballot by mail.  
6 Q. Is there such a thing as an emergency absentee  
7 ballot?  
8 A. I don't know. I haven't heard of such a  
9 creature.  
10 Q. Let me put it in a different way. If I did not  
11 know that I was going to be out of town, and it was 15  
12 days before the election, is there any way that I could  
13 obtain an absentee ballot?  
14 A. I don't know what the deadline is. I think  
15 that the deadline is later than that, so yes.  
16 Q. So when you say "later than that," is there --  
17 A. Closer to the election than 15 days.  
18 Q. So there's a deadline for when I can actually  
19 request an absentee ballot?  
20 A. Yes.  
21 Q. And do you know what that deadline is?  
22 A. I don't off the top of my head. It was  
23 different for this year's election because of the  
24 redistricting.  
25 Q. Is it 60 days before an election?

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- 1 A. No. It has to be within 60 days that you apply  
2 for a ballot by mail.  
3 Q. And we're talking about the absentee ballot  
4 application?  
5 A. That's right.  
6 Q. And if I fail to apply for an absentee ballot  
7 by using the application within that 60-day period, can  
8 I obtain an absentee ballot?  
9 A. No.  
10 Q. So going back to my original question, if I  
11 missed that application deadline --  
12 A. Right.  
13 Q. -- the 60-day deadline, is there any way for me  
14 to obtain an absentee ballot?  
15 A. There's not a 60-day deadline.  
16 Q. Okay.  
17 A. The application for ballot by mail, you can't  
18 apply for it earlier than 60 days before the election.  
19 Q. Earlier than 60 days.  
20 A. Right.  
21 Q. So any time within that 60 --  
22 A. 60 to the election, but I think it's a few days  
23 before the election is when the deadline is. I just  
24 don't remember off the top of my head.  
25 Q. Okay. That was my misunderstanding. I thank

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- 1 you for that testimony.  
2 Is there such a thing as a permanent  
3 absentee ballot?  
4 A. No.  
5 Q. So would a voter be required to apply for an  
6 absentee ballot prior to each election?  
7 A. Yes.  
8 Q. Okay. And when I say "apply," they would have  
9 to fill out the absentee ballot application and submit  
10 it within whatever the deadline is?  
11 A. Right.  
12 MR. GEAR: Let's take a break.  
13 (Recess from 3:38 p.m to 3:50 p.m.)  
14 MR. GEAR: So we're back on the record.  
15 (Exhibit 557 marked for identification.)  
16 Q. (By Mr. Gear) I wanted to hand you what's  
17 marked as Exhibit 557, and give you an opportunity to  
18 look at that, and then we can talk about it.  
19 A. (Reviewing documents.) Okay.  
20 Q. All right. And so you've testified a number  
21 times about a spreadsheet that was generated from the  
22 Secretary of State's Office that addressed referrals to  
23 the Attorney General's Office. Can you identify what  
24 Exhibit 557 is?  
25 A. Exhibit 557 is what appears to be a list of

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- 1 complaints that were received, some of which were  
2 referred to the OAG.  
3 Q. Received by the Secretary of State's Office?  
4 A. I'm assuming. What this is, is, there was --  
5 say we have war room taking calls on election day?  
6 Q. Uh-huh.  
7 A. This was the May election in 2009, so I don't  
8 know what was on the ballot, but that's generally a  
9 local election day.  
10 Q. And is this the spreadsheet that you were  
11 referring to?  
12 A. It is not.  
13 MR. GEAR: So Patrick, just for the  
14 record, I'd like to see if -- he's testified that he's  
15 produced the spreadsheet. I'd like to see if we can get  
16 that spreadsheet produced to us.  
17 MR. SWEETEN: Okay.  
18 MR. GEAR: And I'll follow up with a  
19 letter, if that's what you would like me to do.  
20 MR. SWEETEN: Okay. Well, just for the  
21 record, I'll say that this was the spreadsheet that I --  
22 I asked my folks in the office if there was a  
23 spreadsheet produced. I mean, these are the Bates  
24 labels that we said we had. Is that right, Bruce?  
25 MR. GEAR: You did say that.

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1 MR. SWEETEN: I don't see Bates labels on  
2 this copy.  
3 MR. GEAR: There's one at the top. It  
4 looks like it's cut off.  
5 MR. SWEETEN: Okay.  
6 MR. GEAR: TX 000 -- I don't know the  
7 rest. I think it's 18125.  
8 MR. SWEETEN: Okay. But we'll look to see  
9 if there's another spreadsheet. Yeah, if you'll just  
10 send me a letter on that specifically about that, and  
11 we'll run it --  
12 MR. GEAR: Okay. I'll do that -- I'll do  
13 that this week.  
14 Q. (By Mr. Gear) And so, just so I'm clear, the  
15 exhibit that I've handed you, 557, does that -- is  
16 something that would have been produced by the Secretary  
17 of State's Office?  
18 A. Yes. This is -- this is what we take the  
19 complaints on during the day, during election day, you  
20 know, and so I would imagine. I wasn't there in 2009.  
21 But we do something similar now. So I think that it's  
22 the same thing.  
23 Q. And do you do this type of exhibit for each  
24 election? I note that this has "May 9th, 2009 General  
25 Election" on it.

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1 A. I don't know what happens to these after  
2 election day. I don't know if they're kept. I don't  
3 know where this one came from. I don't know. I don't  
4 know.  
5 Q. Do you know if you have produced any additional  
6 exhibits or documents that are similar to Exhibit 557  
7 regarding other elections?  
8 A. I don't know.  
9 Q. Okay.  
10 MR. GEAR: I'll put within my request a  
11 request for production regarding any other -- for lack  
12 of better word -- spreadsheets that deal with specific  
13 elections that are similar to Exhibit 557.  
14 Q. (By Mr. Gear) Does Exhibit 557 refresh your  
15 recollection as to whether or not there were any  
16 allegations or complaints referred to the Secretary --  
17 to the Attorney General's Office regarding noncitizens  
18 voting?  
19 A. No. This -- this doesn't have anything to do  
20 with that.  
21 Q. Does this Exhibit 557, which is the May 9,  
22 2009, general election, have any indication that any  
23 voter impersonation cases were referred to the Attorney  
24 General's Office?  
25 A. No.

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1 Q. Okay. So before the break, we left off, we  
2 were talking about absentee ballots. Can you tell me  
3 every reason under the Texas Election Code that a voter  
4 would be allowed to request an absentee ballot?  
5 A. I don't know if I know every reason. I know  
6 that over 65 can request an absentee ballot. Over the  
7 age of 65, persons can request one. The disabled  
8 persons can. And you can if you are going to be out of  
9 the county during the entire voter -- early voting  
10 period and election day. I don't know if that's the  
11 universe of options, but I know those three.  
12 Q. Okay. Those would be the main reasons, as you  
13 understand them?  
14 A. Very much so.  
15 Q. Okay. So, you can vote -- you can request and  
16 then vote an absentee ballot if you are sick or  
17 disabled; is that right?  
18 A. That's right.  
19 Q. What additional steps, if any, must a disabled  
20 voter take to qualify for an absentee ballot?  
21 A. I don't think there's any additional steps that  
22 they have to take.  
23 Q. They can simply complete the application and  
24 request an absentee ballot?  
25 A. Fill it out and send it back.

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1 Q. Is there any proof required to show that  
2 they're actually disabled or sick at the time the  
3 absentee ballot has been requested?  
4 A. I don't believe so.  
5 Q. If a disabled voter requires an absentee  
6 ballot -- or I'm sorry. Strike that.  
7 If a disabled voter requires assistance  
8 while voting an absentee ballot, what must they do to  
9 comply with election law in the State of Texas?  
10 A. There is instructions with their absentee  
11 ballot about the assistance that can be provided and who  
12 can provide it and what assistance can be provided, and  
13 all of that's in the form, so I don't want to quote from  
14 -- by memory.  
15 Q. Do you know what the person providing  
16 assistance must do to comply with election law?  
17 A. It depends on what they do, but generally,  
18 they're going to have to identify themselves and sign a  
19 statement that they didn't vote for the person.  
20 Q. Is that a sworn statement?  
21 A. I think so, yeah.  
22 Q. What happens if the voter, the disabled voter  
23 fails to follow these procedures?  
24 A. Well, if they don't follow the correct  
25 procedure, generally, the result is that the vote is not

<p style="text-align: center;">221</p> <p>1 counted. Usually what happens is, the county clerk will</p> <p>2 receive the absentee ballot, notice a defect of some</p> <p>3 sort, contact the voter, and get the defect remedied.</p> <p>4 So, while it's still in that receipt</p> <p>5 process, there's an opportunity to remedy defects. It</p> <p>6 depends on what the defect is, of course. But once it</p> <p>7 has gone to the ballot board, then, you know, you can't</p> <p>8 change anything.</p> <p>9 Q. The defect cannot be remedied.</p> <p>10 A. Right.</p> <p>11 Q. Would be a disabled voter or the person</p> <p>12 providing assistance be subject to criminal penalties if</p> <p>13 they fail to follow the procedures? And that's</p> <p>14 generally.</p> <p>15 A. I don't know. It depend on what happens. It</p> <p>16 depends on the defect. I don't think for most defects,</p> <p>17 most mistakes, there's criminal penalties. There's</p> <p>18 criminal penalties for fraud.</p> <p>19 Q. Also, based on your testimony, you can</p> <p>20 provide -- you can vote an absentee ballot if you're 65</p> <p>21 years or older on election day; is that right?</p> <p>22 A. That's right.</p> <p>23 Q. What must a voter who is of 65 years or older</p> <p>24 do to obtain an absentee ballot?</p> <p>25 A. Apply for it.</p>	<p style="text-align: center;">223</p> <p>1 A. Right. The bill is what it is. So I don't</p> <p>2 know. It says what it says.</p> <p>3 Q. And what does the bill say?</p> <p>4 A. I'm looking.</p> <p>5 Q. Take your time.</p> <p>6 A. (Reviewing document.) Okay. It says that</p> <p>7 Transportation Code 521(a) regarding election</p> <p>8 identification certificate, that it doesn't expire once</p> <p>9 it's issued to a person 70 years of age or older.</p> <p>10 Q. So an individual who is 70 years of age or</p> <p>11 older would be exempt from SB 14; is that fair to say?</p> <p>12 A. Well, I don't know. That's not what this</p> <p>13 says. It says that the election identification</p> <p>14 certificate doesn't expire for that person.</p> <p>15 Q. What would the 70 year or older voter be</p> <p>16 required to show if they went to the polls and voted on</p> <p>17 election day and SB 14 was implemented and in place?</p> <p>18 A. I don't see anything in this bill that exempts</p> <p>19 them from showing ID, so presumably, the difference is</p> <p>20 that they're -- they would never be with election</p> <p>21 identification certificate that had expired more than 60</p> <p>22 days before the election.</p> <p>23 Q. So your understanding is, is that -- and</p> <p>24 correct me if I'm wrong -- that, that they would have to</p> <p>25 show both an election certificate and a photo ID?</p>
<p style="text-align: center;">222</p> <p>1 Q. Is there any additional requirement to show</p> <p>2 that the voter is actually 65 years old?</p> <p>3 A. I don't believe so.</p> <p>4 Q. So as you sit here today, you're not aware of</p> <p>5 any additional steps that a 65 year or older voter must</p> <p>6 take to apply for and vote an absentee ballot?</p> <p>7 A. No. Their date of birth is in the voter</p> <p>8 registration database. There's a few voters that</p> <p>9 don't. I think we got about 25,000 in Dallas that</p> <p>10 don't, so it's out of 1.9 million voters. So we know.</p> <p>11 Q. Okay. So do you know why -- or do you know the</p> <p>12 reason why SB 14 only exempts voters 70 years or older?</p> <p>13 A. I do not.</p> <p>14 Q. Are you aware of any communication from the</p> <p>15 Secretary of State's Office to any entity within the</p> <p>16 state of Texas that -- that analyzes the reason why 70</p> <p>17 old or older voters are exempted under SB 14?</p> <p>18 A. I'm not aware of any such.</p> <p>19 Q. Is it fair to say that under SB 14, the</p> <p>20 exemption for 70 year or older voters is only for the</p> <p>21 election certificate?</p> <p>22 A. I don't know.</p> <p>23 Q. Would a 70 year old or older voter be required</p> <p>24 to show photo ID pursuant to SB 14? And I just note for</p> <p>25 the record that you are reviewing SB 14.</p>	<p style="text-align: center;">224</p> <p>1 A. No. That's not what I said.</p> <p>2 Q. Okay. And I said correct me if I was wrong.</p> <p>3 A. Right. And so what it is, is they would just</p> <p>4 have a form of ID that wouldn't be subject to the</p> <p>5 expiration provisions of 63.101.</p> <p>6 Q. Does an election certificate have a photo?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know what the purpose of the 70 years or</p> <p>9 older exemption was?</p> <p>10 MR. SWEETEN: Objection, calls for</p> <p>11 speculation.</p> <p>12 A. I do not.</p> <p>13 Q. (By Mr. Gear) Do you know why 65 years or older</p> <p>14 was not considered under SB 14?</p> <p>15 A. I do not.</p> <p>16 Q. I don't know if you testified to this, but is</p> <p>17 it also true that a person who is confined in jail and</p> <p>18 not convicted of a felony could vote an absentee</p> <p>19 ballot? For instance, hypothetically, someone went to</p> <p>20 the jail for driving without a valid driver's license,</p> <p>21 which I believe would be a misdemeanor in most cases.</p> <p>22 They are waiting their pending court date. Would that</p> <p>23 individual be allowed to vote an absentee ballot?</p> <p>24 A. I don't know.</p> <p>25 Q. Is it fair to say that the majority of the</p>



<p style="text-align: center;">225</p> <p>1 types of allegations or complaints that you both receive</p> <p>2 and refer to the Texas Attorney General's Office would</p> <p>3 be based on absentee ballot fraud?</p> <p>4 A. Are you asking if the majority of the</p> <p>5 complaints that we receive and refer have to do with</p> <p>6 absentee ballots?</p> <p>7 Q. Yes.</p> <p>8 A. I don't think that's a fair characterization,</p> <p>9 no.</p> <p>10 Q. Okay. Would it be fair to say that the</p> <p>11 majority of the complaints that you receive and refer</p> <p>12 deal with anything -- issues other than voter</p> <p>13 impersonation?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And would you say that there is a -- or</p> <p>16 what percentage of those would you say would deal with</p> <p>17 absentee ballot fraud?</p> <p>18 A. I don't know.</p> <p>19 Q. Would you -- does the Election Division track</p> <p>20 absentee ballot voting by race of voters?</p> <p>21 A. We don't track any voting by race of voters.</p> <p>22 Q. Are you aware if the majority of convictions</p> <p>23 relating to voter fraud have to deal with absentee</p> <p>24 ballots?</p> <p>25 A. I don't know.</p>	<p style="text-align: center;">227</p> <p>1 voting in person.</p> <p>2 Q. And how does it differ?</p> <p>3 A. One is by mail and one is in person.</p> <p>4 Q. What does the voter need to do to early vote?</p> <p>5 A. Show up at polling place and present either a</p> <p>6 voter registration card or another acceptable form of ID</p> <p>7 on a 63.0101 list.</p> <p>8 Q. And we talked about the basis for voting</p> <p>9 absentee ballot. There is any reason that a voter has</p> <p>10 to provide to vote early vote, or in other words, show</p> <p>11 up at the polls and vote early? Is there reason that's</p> <p>12 required?</p> <p>13 A. Not even, any -- any reason or no reason.</p> <p>14 Q. Are you aware of any analysis or studies that</p> <p>15 would indicate which process, either early voting or</p> <p>16 absentee ballot voting, Texans tend to use more during</p> <p>17 elections?</p> <p>18 MR. SWEETEN: Can you read that back to</p> <p>19 me, please?</p> <p>20 (Requested portion was read back by the</p> <p>21 court reporter.)</p> <p>22 A. We do not have any analysis of that. This</p> <p>23 election that we just had May 29th, will be the first</p> <p>24 election under a new law, 18.068. The second 18.068.</p> <p>25 There's two of them. And it will require counties to</p>
<p style="text-align: center;">226</p> <p>1 Q. Would the types of referrals or complaints that</p> <p>2 you've made to the Attorney General's Office be</p> <p>3 reflected in the spreadsheet that you've testified</p> <p>4 here today?</p> <p>5 A. Yes.</p> <p>6 Q. And to be fair, we don't have that spreadsheet</p> <p>7 in front of us.</p> <p>8 A. Right.</p> <p>9 Q. Do you have any knowledge as to whether or not</p> <p>10 whites or Anglos, as it's referred to in the state of</p> <p>11 Texas, tend to use the absentee ballot process more than</p> <p>12 minorities?</p> <p>13 A. I do not know.</p> <p>14 Q. Do you have any knowledge as to the percentage,</p> <p>15 in any given election, of Blacks or Hispanics who use</p> <p>16 the absentee ballot process?</p> <p>17 A. We don't track voters by race.</p> <p>18 Q. Have you seen an increase in vote by mail in</p> <p>19 Texas over the -- I'm trying to put that in a time frame</p> <p>20 for you.</p> <p>21 A. Right.</p> <p>22 Q. Strike that question.</p> <p>23 Does absentee ballot voting or voting by</p> <p>24 mail differ from early voting?</p> <p>25 A. Yes, I assume by early voting you mean early</p>	<p style="text-align: center;">228</p> <p>1 provide to the Secretary of State voting history for</p> <p>2 everybody. In the past, voting history has been</p> <p>3 submitted voluntarily. Some counties did, some counties</p> <p>4 didn't. So this is the first election that we will have</p> <p>5 where within 30 days, we'll have voting history for all</p> <p>6 counties, assuming that they comply. And the voting</p> <p>7 history will delineate early vote, early vote absentee</p> <p>8 ballot by mail, UOCAVA, or election day voting.</p> <p>9 Q. Okay. And so you said there have been two</p> <p>10 versions of 18.068, correct?</p> <p>11 A. There is, in the election code right now, two</p> <p>12 18.068s.</p> <p>13 Q. And this past election is the first time that</p> <p>14 local election officials would have to track the voting</p> <p>15 history?</p> <p>16 A. No. That's the first time they have to report</p> <p>17 voting history to us.</p> <p>18 Q. And you said that that would delineate what?</p> <p>19 A. It will delineate who voted and the means by</p> <p>20 which they voted.</p> <p>21 Q. In other words, it will identify early voting</p> <p>22 by mail voting, in-person voting on election day?</p> <p>23 A. In-person early voting. And I think they'll</p> <p>24 break out the overseas military voters separately.</p> <p>25 Q. Okay.</p>

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1 was spent on voter education relevant to SB 14 for the  
2 primary since it was not precleared?

3 A. Right. But money was spent on a voter  
4 education campaign minus SB 14.

5 Q. So the 3 million dollar figure that you just  
6 mentioned, is that specific to voter education regarding  
7 SB 14?

8 A. That was what it was originally intended for,  
9 but SB 14 has not been precleared, and we cannot educate  
10 the public with regard to its requirements yet.

11 Q. So that money is being spent on things that  
12 have nothing to do with SB 14?

13 A. It's being spent on what it was designed to be  
14 spent for, which is a voter education campaign.

15 Q. Do you have a figure that is how much money is  
16 going be spent on the voter education requirements  
17 specific to photo ID that are required by SB 14?

18 A. I do not.

19 Q. Is it true you that it will be a number less  
20 than 3 million?

21 A. Well, there is less than 3 million left in the  
22 budget for the voter education campaign. As soon as  
23 voter ID is precleared, the entire emphasis of the  
24 remaining campaign is going to be on photo ID.

25 Q. Okay. So you don't know at this point how much

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1 that's going to be, because it's -- if I understand what  
2 you just said correctly, it's just going to be how much  
3 is left over after you've spent things on other voter  
4 education activities?

5 A. It depends upon when voter ID is precleared,  
6 that's correct.

7 Q. How do you know you'll have enough money left  
8 over after you're doing whatever you're doing right now?

9 A. I don't know what you mean by enough.

10 Q. Well, it sounds like you don't know how much  
11 you're going to have when SB 14 is precleared, if it is  
12 precleared, and there are certain -- I mean, SB 14  
13 requires that Secretary of State educate voters about  
14 the photo ID requirements. What if there is too small  
15 an amount? Is that possible? Is there's too small an  
16 amount to adequately educate voters about the photo ID  
17 requirement?

18 A. I don't know. I'm not a communications expert.

19 Q. Is Communications solely responsible for  
20 implementing the plan to educate voters about photo ID?

21 A. I don't know. But when you're talking about  
22 communication strategy for communicating with the public  
23 and whether or not it's effective, I think you would  
24 require somebody besides a lawyer in the Elections  
25 Division.

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1 Q. Of the funds that are going to be used to  
2 educate voters about the photo requirement under SB 14,  
3 what proportion of those funds will be federal funds?

4 A. I don't know. I believe all of them.

5 Q. And will those funds be HAVA funds?

6 A. Yes, indeed.

7 Q. Okay. Has the Secretary of State's Office  
8 confirmed with the Election Assistance Commission that  
9 HAVA funds can be used to pay for SB 14's voter  
10 education plans?

11 A. We believe it falls within the grant, yes.

12 Q. Does the Election Assistance Commission believe  
13 that?

14 A. I don't know.

15 Q. Have you made any efforts to find out?

16 A. I haven't, no.

17 Q. Are you aware of anyone in the Secretary of  
18 State's Office trying to find that out?

19 A. Probably Dan Glotzer.

20 Q. Have you ever asked Dan Glotzer if he found  
21 that out?

22 A. I have not.

23 Q. Does the plan to educate voters about the photo  
24 ID requirement under SB 14 include efforts that will  
25 continue after the 2012 election?

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1 A. I don't know.

2 Q. Have you seen the plan to educate voters about  
3 the photo requirement under SB 14?

4 A. I don't know. I don't think so.

5 Q. Is there a plan to educate voters about the  
6 photo ID requirement under SB 14?

7 A. Well, I don't know what you mean by a plan.  
8 There's a communication strategy that's in place, that  
9 time has been purchased. I mean, everything's been  
10 reserved, and the plan for communication is in place.  
11 The content is subject to change.

12 Q. So a communication strategy is in place, and  
13 that means that ad time has been bought?

14 A. Well, it's been reserved. I said all this in  
15 my affidavit to the court about the August 15th date.

16 Q. Okay. Let's take a look at that. If I could  
17 ask Mr. Gear to -- I believe you've got copies of  
18 Mr. Ingram's affidavit there from March 23rd. Well,  
19 filed on March 23rd.

20 MR. GEAR: I do. I'm going to mark that  
21 as Exhibit Number -- I'll mark it as MALC  
22 Exhibit 558. Are you doing your separate numbering?

23 MR. SWEETEN: No, that's fine. Thank you.  
24 (Exhibit 558 marked for identification.)

25 Q. (By Mr. Vandewalker) Mr. Ingram, when you get a

<p style="text-align: center;">249</p> <p>1 requirement under SB 14?</p> <p>2 A. We have created an app, both for Android and</p> <p>3 for iPhones, and the content on that app can change to</p> <p>4 voter ID whenever we get precleared.</p> <p>5 Q. What other ways have the Special Projects Team</p> <p>6 made efforts to reach minority voters with the voter</p> <p>7 education plan about photo ID requirements?</p> <p>8 A. I don't know of anything specific that I can</p> <p>9 recall as we sit here today. There's a strong social</p> <p>10 media component, and it's multi-layered. I don't know</p> <p>11 what they all are.</p> <p>12 Q. Would you know if they were doing things other</p> <p>13 than relying on social media? I mean, you said they</p> <p>14 give you reports about what they are doing. Are those</p> <p>15 the kinds of things that are in those reports?</p> <p>16 A. No, they don't give me specific reports about</p> <p>17 what radio spots they're running where and what TVs</p> <p>18 they're running where. I mean, I don't know those kind</p> <p>19 of details. That's not -- would be a Rich question.</p> <p>20 Do you understand what I'm saying? The</p> <p>21 question about Spanish markets and African American</p> <p>22 markets and how those are being targeted with specific</p> <p>23 ads, I would never get in the middle of that level of</p> <p>24 detail. That would not be productive.</p> <p>25 Q. And have you directed your staff to engage</p>	<p style="text-align: center;">251</p> <p>1 August 15th, but you don't actually know what their</p> <p>2 progress is?</p> <p>3 A. That's right.</p> <p>4 Q. And do you know if any of those TV ads are</p> <p>5 going to be in Spanish?</p> <p>6 A. I don't know. I know in the first round, they</p> <p>7 were.</p> <p>8 Q. Do you know if the plan will make use of radio</p> <p>9 ads?</p> <p>10 A. I assume that it will. The first phase did.</p> <p>11 Q. And do you know if any of those will be in</p> <p>12 Spanish?</p> <p>13 A. I imagine they will be, yes.</p> <p>14 Q. Okay. If we could go back your affidavit,</p> <p>15 which has been marked as MALC Exhibit 558.</p> <p>16 A. Yes, I have it.</p> <p>17 Q. If I could just direct you to Paragraph 7. You</p> <p>18 say there that, "In order to have a basic education</p> <p>19 program, the Secretary of State's Office would need a</p> <p>20 final decision by August 15th," and then you contrast</p> <p>21 that with a complete program, which would need a</p> <p>22 decision by no later than July 6th. I wonder if you</p> <p>23 could tell me: What's the difference between a basic</p> <p>24 program and a complete program?</p> <p>25 A. I cannot. That would be a Rich Parsons</p>
<p style="text-align: center;">250</p> <p>1 those things, even though you're not keeping track of</p> <p>2 the what they are doing?</p> <p>3 A. As I told you before, I don't have to direct</p> <p>4 them than that; they are well aware of their obligations</p> <p>5 in that regard.</p> <p>6 Q. Does the -- or will the education plan to</p> <p>7 educate voters about photo ID requirements make use of</p> <p>8 newspapers?</p> <p>9 A. I don't know. Probably, but it would be a</p> <p>10 small component, I bet.</p> <p>11 Q. Do you know if any newspaper ads have been</p> <p>12 designed yet?</p> <p>13 A. I do not.</p> <p>14 Q. Does the education plan to educate voters about</p> <p>15 photo ID under SB 14 make use of television advertising?</p> <p>16 A. Yes.</p> <p>17 Q. Do you know if TV advertisements have been</p> <p>18 designed or produced yet?</p> <p>19 A. I do not know the status of those. I</p> <p>20 anticipate that they are in some level of production,</p> <p>21 because the goal is to have a plan in place ready to go</p> <p>22 by August the 15th or August 31st, in case this gets</p> <p>23 precleared, so I don't know how long the front end is on</p> <p>24 that, but they'll be ready.</p> <p>25 Q. So you expect that those will be ready by</p>	<p style="text-align: center;">252</p> <p>1 question.</p> <p>2 Q. Could you turn to the next page and tell me:</p> <p>3 Did you sign this affidavit?</p> <p>4 A. I did.</p> <p>5 Q. And so when you signed this affidavit, did you</p> <p>6 understand what Paragraph 7 meant?</p> <p>7 A. I understand that it's what Rich told me.</p> <p>8 Q. Now, you also state here that -- I'm sorry. As</p> <p>9 I said before, you say that you would need a final</p> <p>10 decision by August 15th in order to have even the basic</p> <p>11 education program. If I were to represent to you that</p> <p>12 the court has predicted that it won't make a decision</p> <p>13 until August 31st, does that mean the Secretary of State</p> <p>14 will not be able to have even a basic education program?</p> <p>15 A. It means that we're going to get it done.</p> <p>16 Q. Will the program be less well developed than</p> <p>17 whatever this basic education program that's</p> <p>18 contemplated in your affidavit is?</p> <p>19 A. I'm sure it will be the same as the August</p> <p>20 15th, just with less time to have an impact.</p> <p>21 Q. So what is does it mean that it will have less</p> <p>22 time to have an impact?</p> <p>23 A. It will be 16 more days down the road toward</p> <p>24 election.</p> <p>25 Q. Will it reach fewer voters?</p>

<p style="text-align: center;">253</p> <p>1 A. I don't know. I assume so. But that's, again,</p> <p>2 a Rich question.</p> <p>3 Q. Who bears the primary responsibility for</p> <p>4 informing election workers or poll workers about changes</p> <p>5 to state election law, like the new photo ID</p> <p>6 requirements in SB 14?</p> <p>7 A. The Secretary of State's Elections Division.</p> <p>8 Q. And what's the Election Division's plan for</p> <p>9 training poll workers on the voter ID requirements of</p> <p>10 SB 14?</p> <p>11 A. Well, we've got several things that we're</p> <p>12 planning to do. We've got forms that we've prepared</p> <p>13 that we submitted for preclearance. We've got a manual</p> <p>14 that we have begun to draft, that we've also submitted</p> <p>15 for preclearance, that's going require a little</p> <p>16 modification, and we've got a video that we have used in</p> <p>17 the past for educating poll workers, and we're going to</p> <p>18 add PowerPoint content to that video in time for an</p> <p>19 August 15th roll-out.</p> <p>20 Q. And how do poll workers see that content? Do</p> <p>21 you send it to the county supervisors and they give it</p> <p>22 to the actual workers, or how does that work?</p> <p>23 A. That's generally the way it works. The</p> <p>24 election administrators or county clerks, whoever is in</p> <p>25 charge of the elections at the local level, is</p>	<p style="text-align: center;">255</p> <p>1 election night returns process for these two last</p> <p>2 elections, or this last election that we've had. So she</p> <p>3 now has breathing space within which to do this work.</p> <p>4 Q. And how do you think getting those training</p> <p>5 materials out, you know, the difference between August</p> <p>6 15th and August 31st, two weeks or a little more, how</p> <p>7 will that two weeks make a difference in election worker</p> <p>8 training?</p> <p>9 A. It won't make a difference directly in election</p> <p>10 worker training. It will make a difference in educating</p> <p>11 the county employees.</p> <p>12 We've got a seminar where county employees</p> <p>13 are going -- election workers, tax assessors, collectors</p> <p>14 voter registrars, are going to be in town August the</p> <p>15 20th and the few days thereafter, and it would be ideal</p> <p>16 to roll this out with them at that time, while we've got</p> <p>17 7- or 800 of them present, that would be great if we</p> <p>18 could do that, and that way, they would have personal</p> <p>19 interaction with us before they start training their</p> <p>20 poll workers. Unfortunately, if it's August 31st, we're</p> <p>21 not going to have the opportunity to demonstrate this to</p> <p>22 those county officials.</p> <p>23 Q. So then how will you inform county officials</p> <p>24 about the photo ID requirement?</p> <p>25 A. Well, the way we generally communicate with</p>
<p style="text-align: center;">254</p> <p>1 responsible for making sure their poll workers go</p> <p>2 through training before they work.</p> <p>3 Q. Now, you said an August 15th roll-out. If</p> <p>4 there isn't a decision on preclearance of SB 14, how</p> <p>5 will that change your plan?</p> <p>6 A. It will not. It will just mean that it rolls</p> <p>7 out August 31st.</p> <p>8 Q. And is it -- so that's the kind of thing that</p> <p>9 you are able to change to conform to SB 14 and roll out</p> <p>10 with a day's notice?</p> <p>11 A. Certainly not. These are changes that are</p> <p>12 being worked on right now.</p> <p>13 Q. So the training materials, if I understand you</p> <p>14 correctly, are not completed now but are in the process</p> <p>15 of being completed?</p> <p>16 A. That is correct.</p> <p>17 Q. Have you seen those training materials?</p> <p>18 A. I have seen the manual, the draft that's in</p> <p>19 front of the DOJ right now. I had input into the</p> <p>20 drafting. I have not seen any of the PowerPoint</p> <p>21 presentations' splices into the video yet. I've talked</p> <p>22 to Lettie about some of the content that we're going to</p> <p>23 need to put in that. She's got a copy of the manual so</p> <p>24 she can transfer content from the manual to those</p> <p>25 slides. But she has been otherwise engaged with the</p>	<p style="text-align: center;">256</p> <p>1 county officials is by e-mail.</p> <p>2 Q. So you'll just send out an e-mail sometime</p> <p>3 after the preclearance decision saying what to do about</p> <p>4 photo ID; is that correct?</p> <p>5 A. That's right, and where the training materials</p> <p>6 are located on our website, and, you know, that we have</p> <p>7 copies available, if they need them, in CD form or DVD</p> <p>8 form. I mean, we'll run the full gamut of communication</p> <p>9 at that point, but it will start with an e-mail that</p> <p>10 says, we've been precleared and we got training</p> <p>11 materials, here they are.</p> <p>12 Q. Will the training materials include samples of</p> <p>13 the acceptable forms of ID under SB 14?</p> <p>14 A. That's the modification that I want to make, so</p> <p>15 it will have representative samples. I'm intending for</p> <p>16 it to have that, yes.</p> <p>17 Q. Will it include a sample of a voter</p> <p>18 registration certification showing that the voter is</p> <p>19 disabled?</p> <p>20 A. I don't know if we'll have a mock-up of that at</p> <p>21 the time. I don't know that form exists yet. That's --</p> <p>22 I don't know.</p> <p>23 Q. And how do you plan to determine whether</p> <p>24 election workers understand the requirements of SB 14 to</p> <p>25 show photo ID?</p>

<p style="text-align: center;">261</p> <p>1 voters?</p> <p>2 A. Yes.</p> <p>3 Q. When?</p> <p>4 A. I don't know for sure, but I would imagine just</p> <p>5 about every election.</p> <p>6 Q. Do you know of any examples?</p> <p>7 A. Well, this exhibit that we just had from the</p> <p>8 May 9th general election, the very first one, "Worker</p> <p>9 was rude and blamed the voter."</p> <p>10 Q. And can you think of any other examples?</p> <p>11 A. You know, you get some of that, you know, the</p> <p>12 two elections that I've sat in the room listening to</p> <p>13 them answer the phone calls, as far as I can tell, both</p> <p>14 elections had some amount of that.</p> <p>15 Q. Okay. But I'm just asking if you happen to</p> <p>16 remember the specific facts of any cases that you can</p> <p>17 tell me now.</p> <p>18 A. The second one on the list on Exhibit 557,</p> <p>19 "Police chief's brother was driving down a," quote,</p> <p>20 "Hispanic," close quote, "part of town in a police car</p> <p>21 with a large dog in back of car on election day.</p> <p>22 Council members alleges that this activity prevented</p> <p>23 Hispanic turnout, with only five Hispanic voters</p> <p>24 voting."</p> <p>25 I got a complaint -- I got a complaint --</p>	<p style="text-align: center;">263</p> <p>1 question that we can do on or off the record.</p> <p>2 I've found an additional document, and I</p> <p>3 just want to follow up. I believe he's been testifying</p> <p>4 to it all day.</p> <p>5 MR. SWEETEN: Are we talking about the</p> <p>6 spreadsheet?</p> <p>7 MR. GEAR: We're talking about the</p> <p>8 spreadsheet. I believe this is the spreadsheet. Would</p> <p>9 you mind if I put it on the record?</p> <p>10 MR. SWEETEN: That's fine. How much time</p> <p>11 do we have? And I'll work with you on that.</p> <p>12 MR. GEAR: Okay.</p> <p>13 (Recess from 5:06 p.m. to 5:08 p.m.)</p> <p>14 (Exhibit 559 marked for identification.)</p> <p>15 FURTHER EXAMINATION</p> <p>16 BY MR. GEAR:</p> <p>17 Q. We've discussed off the record, and Patrick has</p> <p>18 indulged me to allow to introduce an additional exhibit,</p> <p>19 and so I've showed you what's been marked as Exhibit 559</p> <p>20 and I'd just ask you to identify that for the record.</p> <p>21 A. This appears to be the data from the</p> <p>22 spreadsheet that I've been talking about today.</p> <p>23 Q. Okay. And the data that you've been talking</p> <p>24 about, the spreadsheet pertained to voter fraud,</p> <p>25 correct?</p>
<p style="text-align: center;">262</p> <p>1 oh, stink, I don't remember when -- that it was -- it</p> <p>2 was -- let me think. The complaint was that somebody's</p> <p>3 dog assistant -- assistant -- you know, they were</p> <p>4 disabled visually and they had a dog helping them, that</p> <p>5 that, the presence of that dog scared a voter off.</p> <p>6 Q. Okay. But that's not an example of an election</p> <p>7 worker intimidating or harassing.</p> <p>8 A. Right. But the allegation was that the</p> <p>9 election worker should have kept the dog outside the</p> <p>10 polling place so that other voters could vote.</p> <p>11 Q. I see. What does your office do when you get</p> <p>12 allegations of poll workers intimidating voters?</p> <p>13 MR. SWEETEN: Objection, compound. Go</p> <p>14 ahead. You can give a general.</p> <p>15 A. So we call the county elections administrator</p> <p>16 and let him know about the complaint and what precinct</p> <p>17 it was and the nature of the complaint, and then we --</p> <p>18 if we can, if we've got a number, follow up with the</p> <p>19 voter and say that we have told the person who is in</p> <p>20 charge of that worker.</p> <p>21 MR. GEAR: Would you mind if we take a</p> <p>22 very quick break?</p> <p>23 MR. VANDEWALKER: Yes. That's fine with</p> <p>24 me.</p> <p>25 MR. GEAR: Okay. And actually, I have a</p>	<p style="text-align: center;">264</p> <p>1 A. Yes, complaints of voter fraud.</p> <p>2 Q. Okay. And I asked you two questions as a</p> <p>3 follow-up, one was: Did the spreadsheet that you</p> <p>4 produced identify noncitizens' voting?</p> <p>5 A. Well, I don't think that that's one of the</p> <p>6 allegations on here.</p> <p>7 Q. So the answer would be no?</p> <p>8 A. No. You know, I don't know what illegal voting</p> <p>9 is in the first one. Votes being cast illegally in the</p> <p>10 second one, I don't know. And, obviously, we don't</p> <p>11 investigate these ourselves, so we don't -- you know,</p> <p>12 what we have is an allegation.</p> <p>13 Q. And so you don't know the -- whether or not</p> <p>14 these were investigated or the outcome of these?</p> <p>15 A. Do not. I know that this one is illegal voting</p> <p>16 and voter impersonation. This one is illegal voting and</p> <p>17 voter impersonation. So illegal voting, to me, could</p> <p>18 mean any number of things.</p> <p>19 Q. Okay.</p> <p>20 A. Including -- including noncitizen voting.</p> <p>21 Q. But you don't know as you sit here today?</p> <p>22 A. Do not.</p> <p>23 Q. And I note that in 2009 -- or 2008, there's an</p> <p>24 allegation of voter impersonation; is that accurate?</p> <p>25 A. That is correct.</p>



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- 1 Q. And that's the -- you were referring to Moreno?
- 2 A. No, I was referring to Medrano.
- 3 Q. Medrano, okay. So this -- this would be a
- 4 different allegation?
- 5 A. Yes.
- 6 Q. And you don't know the outcome of it -- of it
- 7 as you sit here today?
- 8 A. I do not.
- 9 Q. And I also note in 2009, there is an allegation
- 10 of voter impersonation. Do you see that?
- 11 A. I do.
- 12 Q. And as you sit here today, do you know the
- 13 outcome of that allegation?
- 14 A. I do not.
- 15 Q. And from my brief review of Exhibit 559, I
- 16 don't see that there are any other allegations, specific
- 17 allegations of voter impersonation?
- 18 A. The other one, the Medrano case, is the bottom
- 19 one on Page 2, and it doesn't specifically say voter
- 20 impersonation in that summary.
- 21 Q. And as we sit here today, do you know the
- 22 outcome of that specific allegation?
- 23 A. That we've got one conviction and another trial
- 24 pending is, I think, the current status.
- 25 Q. And it's a conviction of -- do you know what

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- 1 the conviction is of? And I believe you testified to
- 2 that before.
- 3 A. I don't know the specifics of the conviction,
- 4 but I don't think it was voter impersonation.
- 5 Q. Okay.
- 6 MR. GEAR: I have no further questions,
- 7 and thank you, Patrick.
- 8 MR. SWEETEN: Sure.
- 9 Mr. Vandewalker, you can proceed.
- 10 MR. VANDEWALKER: Thank you.
- 11 FURTHER EXAMINATION
- 12 BY MR. VANDEWALKER:
- 13 Q. I just want to -- we were talking about cases
- 14 where election workers have harassed or intimidated
- 15 voters. What does the Division of Elections do to
- 16 prevent that from occurring in the future?
- 17 A. Well, I don't know. We talk to the election
- 18 administrators and the county officials to make sure
- 19 that if they've had a problem with an election worker,
- 20 that that election worker doesn't get hired again.
- 21 Q. I see. And you've mentioned a few times the
- 22 ability to cast a provisional ballot under SB 14. If
- 23 SB 14 is implemented, will poll workers be given a
- 24 script showing them how to inform voters of the right to
- 25 cast a provisional ballot where they don't have

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- 1 acceptable ID?
- 2 A. We've got a form, that will go with the
- 3 provisional ballot, that talks about what they can do to
- 4 correct their problem, and the counties are supposed to
- 5 attach a map to that form. That form was submitted to
- 6 DOJ Friday.
- 7 Q. And how do you ensure that the election workers
- 8 comply with that procedure?
- 9 A. Well, you know, the Secretary of State's Office
- 10 don't have any enforcement power.
- 11 Q. Does the Secretary of State's Office have a
- 12 plan to ensure adequate staffing in the six days
- 13 following election day to allow voters who voted
- 14 provisional ballots to return with ID?
- 15 A. That would be up to the counties to make sure
- 16 that their staffing patterns are in place for that.
- 17 Q. So the Secretary of State won't engage in any
- 18 oversight of the counties on that issue?
- 19 A. We can educate and we can suggest. That's what
- 20 we do.
- 21 Q. Will the Secretary of State have a procedure
- 22 for answering questions from election workers during
- 23 early voting?
- 24 A. Yes.
- 25 Q. And what is that procedure?

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- 1 A. We answer the phones.
- 2 Q. So do you have to hire extra workers to have
- 3 enough people there to answer the phones?
- 4 A. So far, in the two elections that I've been a
- 5 part of, we have not. I anticipate that prior to this
- 6 general election, there will be increased volume, and we
- 7 have pulled in workers temporarily from other divisions
- 8 in the Secretary of State's Office. And so, you know,
- 9 that's a plan that's been used in the past, and I think
- 10 it would be easy to do again if necessary.
- 11 Q. And the same is true for election day voting,
- 12 or is there a different plan?
- 13 A. No, that would be the same.
- 14 Q. One of the forms of ID that you've mentioned as
- 15 being acceptable under SB 14 is the Election
- 16 Identification Certificate, or EIC. Do you know why DPS
- 17 requires an application for an EIC to include the
- 18 applicant's fingerprints?
- 19 A. I do not.
- 20 Q. Have voters previously been required to submit
- 21 their fingerprints in order to identify themselves?
- 22 A. I don't know.
- 23 Q. Do all of the other forms of ID that are
- 24 acceptable under SB 14 require applicants to submit
- 25 their fingerprints?



<p style="text-align: center;">1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA</p> <p>STATE OF TEXAS, ) Plaintiff, ) VS. ) ERIC H. HOLDER, JR., IN ) HIS OFFICIAL CAPACITY AS ) ATTORNEY GENERAL OF THE ) UNITED STATES, ) Defendant, ) ERIC KENNIE, ET AL., ) Defendant-Intervenors, ) TEXAS STATE CONFERENCE OF ) NAACP BRANCHES, ET AL., ) Defendant-Intervenors, ) TEXAS LEAGUE OF YOUNG ) VOTERS EDUCATION FUND, ET ) AL., ) Defendant-Intervenors, ) TEXAS LEGISLATIVE BLACK ) CAUCUS, ET AL., ) Defendant-Intervenors, ) VICTORIA RODRIGUEZ, ET ) AL., ) Defendant-Intervenors. )</p> <p style="text-align: right;">CASE NO: 1:11-CV-00128 RMC-DST-RLW</p>	<p style="text-align: center;">3</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>1 2 3 FOR THE PLAINTIFF STATE OF TEXAS: Mr. Patrick Sweeten 4 Mr. Reynolds Brissenden ATTORNEY GENERAL OF TEXAS 5 Civil Medicaid Fraud Division 300 W. 15th Street 6 Austin, Texas patrick.sweeten@oag.state.tx.us 7 reynolds.brissenden@oag.state.tx.us 8 9 FOR TEXAS NAACP STATE CONFERENCE AND THE MEXICAN AMERICAN LEGISLATIVE CAUCUS: 10 Ms. Myrna Pérez (telephonically) BRENNAN CENTER FOR JUSTICE AT NYU SCHOOL OF LAW 11 161 Avenue of the Americas, 12th Floor New York, New York 10013 12 myrna.perez@nyu.edu 13 14 FOR THE DEFENDANT ERIC H. HOLDER, JR., IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF THE UNITED STATES: 15 Ms. Elizabeth S. Westfall (telephonically) Mr. Daniel J. Freeman (telephonically) 16 U.S. DEPARTMENT OF JUSTICE Voting Section, Civil Rights Division 17 950 Pennsylvania Ave. NW, NWB Room 7202 Washington, DC 20530 18 elizabeth.westfall@usdoj.gov daniel.freeman@usdoj.gov 19 20 21 FOR DEFENDANT INTERVENORS TEXAS STATE CONFERENCE OF NAACP BRANCHES AND THE MEXICAN AMERICAN LEGISLATIVE CAUCUS OF THE TEXAS HOUSE OF REPRESENTATIVES: 22 Mr. Ezra D. Rosenberg (telephonically) DECHERT, LLP 23 902 Carnegie Center, Suite 500 Princeton, New Jersey 08540-6531 24 ezra.rosenberg@dechert.com 25</p>
<p style="text-align: center;">2</p> <p>1 ***** 2 ORAL DEPOSITION OF 3 CHERRY L. JOHNSON-LAWSON 4 APRIL 17, 2012 5 ***** 6 ORAL DEPOSITION OF CHERRY L. JOHNSON-LAWSON, produced 7 as a witness at the instance of the Defendant Intervenors 8 Texas State Conference of NAACP Branches and the Mexican 9 American Legislative Caucus of the Texas House of 10 Representatives, and duly sworn, was taken in the 11 above-styled and numbered cause on Tuesday, April 17, 12 2012, from 3:20 p.m. to 4:47 p.m., via telephone, before 13 Tamara K. Chapman, CSR in and for the State of Texas, 14 reported by machine shorthand, at the State House, 209 15 West 14th Street, Ground Floor, Austin, Texas, pursuant to 16 the Federal Rules of Civil Procedure and the provisions 17 stated on the record or attached hereto. 18 19 20 21 22 23 24 25</p>	<p style="text-align: center;">4</p> <p>1 FOR THE TEXAS LEAGUE OF YOUNG VOTERS EDUCATION FUND: Mr. Gregory K. Johnson (telephonically) 2 FRIED, FRANK, HARRIS, SHRIVER &amp; JACOBSON LLP 801 17th Street NW, 3 Washington, DC 20006 gregory.johnson@friedfrank.com 4 5 6 FOR THE DEPARTMENT OF PUBLIC SAFETY: Ms. Kathleen T. Murphy 7 TEXAS DEPARTMENT OF PUBLIC SAFETY Office of General Counsel 5805 N. Lamar Boulevard 8 Austin, Texas 78773 kathleen.murphy@txdps.state.tx.us 9 10 11 FOR VICTOR RODRIGUEZ, NICOLE RODRIGUEZ, SOUTHWEST VOTER REGISTRATION EDUCATION PROJECT, MI FAMILIA VOTA EDUCATION FUND: 12 Ms. Nina Perales MALDEF 110 Broadway, Suite 300 13 San Antonio, Texas 78205 nperales@maldef.org 14 15 16 ALSO PRESENT: Ms. Laura Fleming, Paralegal (Dechert, LLP) 17 18 Mr. Russell Weaver (telephonically) - Social Scientist 19 20 21 22 23 24 25</p>

Reported By: Tamara K. Chapman

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<p style="text-align: center;">29</p> <p>1 Q. (BY MR. ROSENBERG) Okay. What is CHI</p> <p>2 Identification, do you know?</p> <p>3 A. The criminal history file.</p> <p>4 Q. And is that a file that is -- has been kept in</p> <p>5 the LTC database as far as you know?</p> <p>6 A. I'm sorry. I don't understand the question.</p> <p>7 Q. Sure.</p> <p>8 Is that a file that has been included in the LTC</p> <p>9 database for as long as you know?</p> <p>10 A. The CHL entry ID, it points to crime records file</p> <p>11 for the applicant.</p> <p>12 Q. And are those crime record files for the</p> <p>13 applicant included in the LTC database?</p> <p>14 A. Their responses are included in the database</p> <p>15 concerning -- to determine eligibility for the applicant.</p> <p>16 Q. And do those -- those do -- are the responses as</p> <p>17 included in the database set forth in specific fields?</p> <p>18 A. Yes.</p> <p>19 Q. And looking at under column definitions, the one</p> <p>20 that begins CH Entry ID, and then CH Journal ID and so on,</p> <p>21 are those fields in the LTC database with which you're</p> <p>22 familiar?</p> <p>23 A. Yes.</p> <p>24 Q. Turning to the next page, and if you see, there</p> <p>25 is a column for CHF (sic) -- CHI Race?</p>	<p style="text-align: center;">31</p> <p>1 block up where it says, Sex, M male, F female, M and F are</p> <p>2 values, right?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. Are there values for the CHI Race field?</p> <p>5 A. Yes.</p> <p>6 Q. And where could I find those values?</p> <p>7 A. It would correspond with the table that is right</p> <p>8 under it that indicates the race, which is a shared --</p> <p>9 there's only one -- one def- -- definition table in the</p> <p>10 system that is about race.</p> <p>11 Q. Okay. Underneath the race block there is a CHI</p> <p>12 Ethnicity field.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Are you familiar with that field?</p> <p>16 A. No.</p> <p>17 Q. Have you ever seen it before?</p> <p>18 A. No.</p> <p>19 Q. And going to the field underneath it that says</p> <p>20 Ethnicity, ethnicity codes are follows: 1 Hispanic, 2</p> <p>21 non-Hispanic, have you ever seen that before?</p> <p>22 A. No.</p> <p>23 Q. Do you know whether or not the LTC contains data</p> <p>24 relating to ethnicity as described in these two fields on</p> <p>25 this page of the document?</p>
<p style="text-align: center;">30</p> <p>1 A. Yes.</p> <p>2 Q. And it says, Race is imported from criminal</p> <p>3 history import file.</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. And is it -- are there values assigned to that</p> <p>7 field of CHI Race?</p> <p>8 A. Explain your question.</p> <p>9 Q. Sure.</p> <p>10 Are there required values --</p> <p>11 Well, let me ask you:</p> <p>12 Do you know what a value is in connection with</p> <p>13 fields in an L- -- in a database like the LTC database?</p> <p>14 A. I -- I'd like to know what you define it as.</p> <p>15 Q. Okay. Well, I want to know -- actually, I'd like</p> <p>16 to know if you have a definition. We're going to use your</p> <p>17 definition, if I like it. If not, I'll use mine.</p> <p>18 A. A value can be -- a value can be a number, it can</p> <p>19 be a character. That's the way I would define it.</p> <p>20 Q. Sure, sure.</p> <p>21 A. I'm not understanding what your -- what you want</p> <p>22 to know.</p> <p>23 Q. Well, I'm really just trying to understand all of</p> <p>24 this.</p> <p>25 So, for example, if you look a few -- just one</p>	<p style="text-align: center;">32</p> <p>1 A. Not at all.</p> <p>2 Q. Are you surprised to see that?</p> <p>3 A. I'm neither --</p> <p>4 MR. SWEETEN: Objection to the form.</p> <p>5 Go ahead. And -- go ahead. You can answer</p> <p>6 the question.</p> <p>7 A. I'm -- I'm surprised at this whole process so</p> <p>8 I'm -- I guess yes.</p> <p>9 Q. (BY MR. ROSENBERG) I'd like to take -- turn your</p> <p>10 attention to a few chapters ahead of that, which is</p> <p>11 Chapter 97, XCVII.</p> <p>12 A. Okay.</p> <p>13 Q. Which -- which is the CHB Identification.</p> <p>14 Do you see that?</p> <p>15 A. Say it one more time, please, Ezra.</p> <p>16 Q. Sure, sure. It's Roman Numeral XCVII.</p> <p>17 A. Okay. XCVII?</p> <p>18 Q. Yes. It's 97.</p> <p>19 A. You're going to have to give me a minute.</p> <p>20 Q. Sure.</p> <p>21 (Witness reviews document.)</p> <p>22 A. CHB Identification?</p> <p>23 Q. (BY MR. ROSENBERG) That's right.</p> <p>24 A. Okay.</p> <p>25 Q. Have you -- have you ever heard of that table?</p>

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<p style="text-align: center;">41</p> <p>1 Q. But specifically if I were looking for</p> <p>2 information as to whether a person was a citizen, can you</p> <p>3 point me in the direction of any tables that I should look</p> <p>4 to?</p> <p>5 A. The specific tables?</p> <p>6 Q. Yeah.</p> <p>7 A. No. I can tell you it's there. I can tell you</p> <p>8 the applicant indicated whether they were a U.S. citizen</p> <p>9 or not. Beyond that, I cannot tell you exactly where it</p> <p>10 sits in the data model. I can't tell you exactly what</p> <p>11 table it's in. That would have to be another individual</p> <p>12 with that expertise.</p> <p>13 Q. Who would that individual be?</p> <p>14 A. It would be a member of our information</p> <p>15 technology team at the Department of Public Safety.</p> <p>16 Q. And is there any specific individual who would be</p> <p>17 someone that would most likely have that information?</p> <p>18 A. I would have to refer to Kathleen, who would have</p> <p>19 to reach out and find out what expert. I can just tell</p> <p>20 you that based -- if you look at the application and the</p> <p>21 information requested, the person has to indicate if</p> <p>22 they're a U.S. citizen or not. You have to be a</p> <p>23 U.S. citizen to qualify for a concealed handgun license in</p> <p>24 the State of Texas.</p> <p>25 Q. Who is Kathleen?</p>	<p style="text-align: center;">43</p> <p>1 and that everything allows them by law and by rule to</p> <p>2 carry a concealed handgun. Anything in the system is just</p> <p>3 for that purpose, to confirm or to disqualify the</p> <p>4 individual based on the laws of Texas.</p> <p>5 Q. Right. And is there any other -- any other field</p> <p>6 in the database that would provide information as to</p> <p>7 whether someone is a citizen other than the specific</p> <p>8 direct report answer of the applicant?</p> <p>9 A. The confirming that what the applicant has told</p> <p>10 us is true would be the only other data, which you have</p> <p>11 here, which is confirming that what they have reported to</p> <p>12 us is validated by the supporting systems that own that</p> <p>13 information.</p> <p>14 Q. And what -- what fields contain that data?</p> <p>15 A. If they give me a driver's license, that the</p> <p>16 information on the driver's license matches the</p> <p>17 information that they indicated.</p> <p>18 Q. Is there information in the LTC database that</p> <p>19 includes information as to whether a license has expired?</p> <p>20 A. Yes.</p> <p>21 Q. And where is that information?</p> <p>22 A. In one of the primary tables associated to that</p> <p>23 license.</p> <p>24 Q. And which one of the primary tables would that</p> <p>25 be?</p>
<p style="text-align: center;">42</p> <p>1 A. Kathleen is our DPS attorney who is sitting here</p> <p>2 at the table.</p> <p>3 Q. And what's Kathleen's last name?</p> <p>4 MS. MURPHY: Murphy.</p> <p>5 Q. (BY MR. ROSENBERG) If you don't know, that's</p> <p>6 fine.</p> <p>7 A. Murphy.</p> <p>8 MR. SWEETEN: Murphy, she said.</p> <p>9 Q. (BY MR. ROSENBERG) Murphy?</p> <p>10 A. I was allowing her to answer.</p> <p>11 Q. She's not under oath.</p> <p>12 A. Sorry.</p> <p>13 Q. Is there information in the LTC database, other</p> <p>14 than the self-reporting information, when somebody asks</p> <p>15 whether they're a citizen or not, that would allow one to</p> <p>16 determine whether someone in this database is a citizen?</p> <p>17 A. The application is provided by the applicant.</p> <p>18 Part of that is that they are answering and affirming that</p> <p>19 they are being honest to everything that is on that</p> <p>20 application.</p> <p>21 They are also authorizing us to confirm that the</p> <p>22 information that they are providing is accurate and</p> <p>23 qualifies them for a license for a concealed handgun in</p> <p>24 the State of Texas. The remainder of that process is to</p> <p>25 confirm that everything that they have answered is honest</p>	<p style="text-align: center;">44</p> <p>1 A. I don't know the exact table.</p> <p>2 Q. Who would know that?</p> <p>3 A. The information technology person that Kathleen</p> <p>4 is able to provide.</p> <p>5 Q. Is there information in the LTC database as to</p> <p>6 licenses that have been revoked or withdrawn or</p> <p>7 surrendered?</p> <p>8 A. Yes.</p> <p>9 Q. And where would that information be found?</p> <p>10 A. It would be in the primary tables.</p> <p>11 Q. And can you point me to any of the primary tables</p> <p>12 where that information would be?</p> <p>13 A. There would be multiple, and, no, I cannot point</p> <p>14 you to the specific table.</p> <p>15 Q. Can you give me an example of any of those</p> <p>16 tables?</p> <p>17 A. It would tell me that the specific record is</p> <p>18 active or inactive, if it -- and the reason that it is</p> <p>19 active or inactive.</p> <p>20 Q. And, again, can you point me to a table that</p> <p>21 shows me that?</p> <p>22 A. It would be multiple tables in the primary pool</p> <p>23 of tables.</p> <p>24 Q. Can you tell me what tables are in the primary</p> <p>25 pool of tables?</p>

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<p style="text-align: center;">45</p> <p>1 A. The specific tables, all -- they are just those</p> <p>2 tables that deal with the specific record, and it's a</p> <p>3 grouping of tables that would be able to tell me through</p> <p>4 the user interface what I -- actually looking at the</p> <p>5 record.</p> <p>6 Q. Do any of these tables have names?</p> <p>7 A. I do not know the names of those tables. They</p> <p>8 would be in this document. I would need time to look</p> <p>9 through this document or bring in a member of our</p> <p>10 information technology team to be able to speak to that.</p> <p>11 But I have not -- this is the first time that I have seen</p> <p>12 this document.</p> <p>13 MR. ROSENBERG: Let's take about a</p> <p>14 five-minute break.</p> <p>15 (Break.)</p> <p>16 Q. (BY MR. ROSENBERG) Ms. Johnson, if I wanted to</p> <p>17 identify those people in the LTC database who currently</p> <p>18 held valid licenses, what fields would I look at?</p> <p>19 A. I don't know. Active -- active -- active</p> <p>20 license.</p> <p>21 Q. Right.</p> <p>22 A. Now, an active license means they are current in</p> <p>23 the database.</p> <p>24 Q. And so what fields would I look at if I wanted to</p> <p>25 find out who had an active license?</p>	<p style="text-align: center;">47</p> <p>1 document?</p> <p>2 A. Yes, ma'am.</p> <p>3 Q. Are there any changes planned to be made to this</p> <p>4 document?</p> <p>5 A. No, ma'am.</p> <p>6 Q. Were you involved in production of the database</p> <p>7 to the Department of Justice --</p> <p>8 MR. SWEETEN: Objection; asked and answered.</p> <p>9 Q. (BY MS. WESTFALL) -- in this litigation?</p> <p>10 MR. SWEETEN: Asked and answered already.</p> <p>11 But go ahead, you can answer it again.</p> <p>12 A. Can you say that one more time?</p> <p>13 Q. (BY MS. WESTFALL) Do you know that a copy of</p> <p>14 the -- of the LTC database was produced to the United</p> <p>15 States in this litigation?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. Were you involved in the production of the</p> <p>18 database to the United States in this litigation?</p> <p>19 A. No, ma'am.</p> <p>20 Q. Do you have any idea why it would have been</p> <p>21 produced to us without fields named over the information?</p> <p>22 A. Everything that you have here is exactly what you</p> <p>23 requested.</p> <p>24 Q. How do you know that?</p> <p>25 A. These are -- this is the complete design. It</p>
<p style="text-align: center;">46</p> <p>1 A. I don't know.</p> <p>2 Q. Who -- who would know that?</p> <p>3 A. Information technology.</p> <p>4 MR. ROSENBERG: I don't have any further</p> <p>5 questions at this point.</p> <p>6 EXAMINATION</p> <p>7 BY MS. WESTFALL:</p> <p>8 Q. Ms. Johnson, this is Elizabeth Westfall. I</p> <p>9 represent defendant, Eric Holder. I just have a few</p> <p>10 additional questions for you.</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. Turn your attention to the exhibit marked</p> <p>13 Intervenor's No. 8 --</p> <p>14 A. Yes, ma'am.</p> <p>15 Q. -- the design document. Do you have that in</p> <p>16 front of you?</p> <p>17 MR. SWEETEN: That's the big one, Elizabeth?</p> <p>18 MS. WESTFALL: Yes.</p> <p>19 MR. SWEETEN: The -- okay. The database</p> <p>20 design document. Okay. We're talking about the big one.</p> <p>21 A. Okay. Because that one says it's 7.</p> <p>22 Q. (BY MS. WESTFALL) Okay. My -- my apologies.</p> <p>23 I'm confused on the numbers. Okay. So Exhibit No. 7?</p> <p>24 A. Yes, ma'am.</p> <p>25 Q. Is this the most current version of this</p>	<p style="text-align: center;">48</p> <p>1 gives you the label, what the type of field is and what</p> <p>2 the information is that resides in that field.</p> <p>3 Q. Are you referring to Intervenor's Exhibit No. 7</p> <p>4 or something else?</p> <p>5 A. The Intervenor's No. 7 is the current document</p> <p>6 that we have describing this database. Everything that</p> <p>7 you have in here is exactly what was requested.</p> <p>8 Q. Thank you for your testimony.</p> <p>9 What I was referring to is whether you were --</p> <p>10 and I believe you just testified you were not involved in</p> <p>11 producing a copy of the database to the United States as</p> <p>12 part of this litigation, correct?</p> <p>13 A. Correct. That's not the second --</p> <p>14 MR. SWEETEN: Just answer her question.</p> <p>15 Q. (BY MS. WESTFALL) So I was wondering whether you</p> <p>16 knew why the database produced to us did not have titles</p> <p>17 for the fields.</p> <p>18 MR. SWEETEN: Objection; calls for</p> <p>19 speculation.</p> <p>20 Go ahead and answer.</p> <p>21 Q. (BY MS. WESTFALL) You may answer.</p> <p>22 A. Having gone through this document and answering</p> <p>23 your questions, everything that is described in this</p> <p>24 document is accurate, it's what you asked for and it</p> <p>25 describes the fields in the system.</p>

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<p style="text-align: center;">49</p> <p>1 Q. And does our testimony -- does that answer refer 2 to Intervenor's Exhibit No. 7? 3 A. From -- this is the latest manual, this is what 4 I've gone through, yes, it does. 5 Q. Thank you for your testimony. 6 And I believe you just testified that you did not 7 know the fields you would have to gather to identify 8 persons with active concealed handgun licenses; is that 9 correct? 10 A. There is multiple tables. So, yes, that is 11 correct. 12 Q. Would you tell me what you know about the field 13 called "License Application Status"? 14 A. That is whether it is active or inactive in the 15 database. 16 Q. Could you describe that field for me a bit more? 17 A. I would need to see the specific field, what its 18 type is, what it -- what it has. There are multiple 19 fields that make up a -- what a user would see from a 20 computer. 21 Q. If I could refer you again to Intervenor's 22 Exhibit No. 7 on Page XII-2 with -- pardon me -- XII-2, 23 which is approximately Page 54 of the document. I'll give 24 you a chance to get there. But there is a box on the left 25 that says "License Application Status."</p>	<p style="text-align: center;">51</p> <p>1 A. Okay. 2 Q. Are you on that page? 3 A. Yes. If you give me one second. 4 Q. Sure. 5 A. Okay. And which col- -- which name -- which 6 column are you interested in? 7 Q. I -- I would like you to describe, if you can, 8 the "License Return Type," which is at the top of the page 9 and what that -- what that shows. 10 A. This indicates where the license -- why it was 11 returned, whether it was because we couldn't deliver it to 12 the applicant, so it was returned by the mail, or whether 13 it was returned through other means which are listed -- 14 listed here. So it was surrendered, confiscated due to 15 a -- it was returned because there was incorrect 16 information printed on it. There are multiple reasons why 17 a license would be returned to the department. 18 Q. Okay. Thank you. 19 So it would not be necessary to have this field 20 if -- if we had the field regarding the license 21 application status; is that correct? 22 A. I'm not -- 23 Q. In order to determine who -- who currently holds 24 an active license? 25 A. That is not for me to determine. That is beyond</p>
<p style="text-align: center;">50</p> <p>1 A. Yes, ma'am. 2 Q. Would this field, if it was produced to the 3 United States, enable us to identify persons who currently 4 have active licenses? 5 A. Yes. 6 Q. Thank you. 7 I'd also like to ask you to describe the "License 8 Return Type" field, if you are familiar with that field. 9 A. Where do you see -- is that on this same page? 10 Q. It is not. I would ask you to turn your 11 attention to Page XXXVII-2, which is on approximately 12 Page 138 of this Intervenor's Exhibit No. 7. 13 A. Okay. Can you -- that's a lot of num- -- a lot 14 of letters. Can you say that again, please? X -- 15 Q. Certainly. I'm sorry. It's XXX -- 16 A. So three X's. 17 Q. -- VII-2, and it's about Page 138. 18 A. Okay. So XXXII- -- 19 Q. VII. So it's XXXVII. 20 A. Yeah, I'm almost there. 21 Q. All right. It's hard -- 22 A. I know. Page numbers would be better, right? 23 Q. Would they. 24 A. Okay. So I'm on XXXVII-2, did you say? 25 Q. 2.</p>	<p style="text-align: center;">52</p> <p>1 my expertise as -- I don't know what you -- what you're 2 trying to get, so -- I can tell you what the fields are. 3 Q. Okay. Well, to rephrase, I'm trying to determine 4 what fields you would need in order to determine who has 5 an unexpired license to carry a concealed handgun. 6 A. The first field we went through, active or 7 inactive. 8 Q. Okay. Give me one second. 9 How often is the database updated? 10 A. Explain what you mean by "how often is the 11 database is updated." 12 Q. Is it a live database, is it -- is data put -- is 13 information and application information put -- put into it 14 on a periodic basis? 15 A. It depends on the information come in. 16 There's -- it's constantly changing. 17 Q. So, in other words, you would describe it as a 18 live database? 19 A. Yes, ma'am. 20 Q. Do you know what percentage of applicants get 21 rejected? 22 A. No, ma'am. 23 Q. Do you know what percentage are unexpired license 24 holders in the database? 25 A. No, ma'am.</p>

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